

INDIANA GAMING COMMISSION

THIRD QUARTER 2011

BUSINESS MEETING

SEPTEMBER 15, 2011

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The Indiana Gaming Commission Third Quarter 2011 Business Meeting, taken by Sherri L. Segó, Notary Public in and for the County of Johnson, State of Indiana, held at the State Library, History Reference Room, 140 North Senate Avenue, Indianapolis, Indiana, commencing at 1:00 p.m. on September 15, 2011.

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Indianapolis, Indiana 46204

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## APPEARANCES

On Behalf of the Gaming Commission:

Tim Murphy, Chairman

Marc Fine, Commissioner

Mary Shy, Commissioner

Robert Morgan, Commissioner

V. Sue Shields, Commissioner

Matt Bell, Commissioner

Ernest Yelton, Executive Director

Jennifer Reske, Deputy Director

Adam Packer, General Counsel

Tami Timberman-Wright, Administrative Assistant

## 1 P R O C E E D I N G S

2

3 CHAIRMAN MURPHY: Good afternoon, everyone.  
4 Welcome to the Third Quarter meeting of the Indiana  
5 Gaming Commission. The meeting is now called to  
6 order. I'd like to turn the meeting over to  
7 Executive Director Yelton to introduce our new  
8 commissioner.

9 EXECUTIVE DIRECTOR YELTON: Thank you,  
10 Mr. Chairman.

11 Commissioner Tom Swihart's term expired on  
12 September 1st, and I want to publically acknowledge  
13 his dedicated service to and his interest in the  
14 Indiana Gaming Commission in specific and the State  
15 of Indiana in general. As we move forward, I'm  
16 pleased to introduce Governor Daniels' appointment  
17 of our newest commissioner, the Honorable Matthew  
18 Bell from Avilla, Indiana.

19 Matt currently serves as the Executive  
20 Director of the Regional Chamber of Northeast  
21 Indiana. Prior to accepting his current position,  
22 he served as a member of the House of  
23 Representatives from 2005 to 2010. During his  
24 term, Representative Bell served as the Ranking  
25 Minority Member of the House Public Policy

1 Committee which heard all gaming initiatives.

2 He spent eight years as the Executive  
3 Director of LEAP in Noble County, Inc., a  
4 community-based literacy program that serves men  
5 and women and children of Noble County.

6 Welcome aboard, Representative Bell.

7 COMMISSIONER BELL: Thank you, sir.

8 EXECUTIVE DIRECTOR YELTON: Despite the fact  
9 that Mr. Swihart is no longer a Commissioner,  
10 Commissioners, he leaves the vacancy of our Vice  
11 Chair. And I'll turn it over to Chairman Murphy  
12 for further action.

13 CHAIRMAN MURPHY: Thank you, Executive  
14 Director Yelton.

15 I'd like to open the floor at this point to  
16 -- for the election of the Vice Chair. Is there a  
17 nomination?

18 COMMISSIONER SHY: I'd like to nominate Marc  
19 Fine.

20 CHAIRMAN MURPHY: Is there a second?

21 COMMISSIONER MORGAN: I second that motion.

22 CHAIRMAN MURPHY: It's been moved and  
23 seconded. All those in favor of the approval as  
24 Vice Chair Marc Fine indicate by saying aye.

25 (All said aye.)

1 CHAIRMAN MURPHY: Opposed?

2 EXECUTIVE DIRECTOR YELTON: As a result,  
3 Commissioner Fine is elected as the Executive  
4 Commissioner.

5 CHAIRMAN MURPHY: I will now open the floor  
6 for nominations for Secretary.

7 MR. FINE: I would like to nominate Mary  
8 Shy.

9 CHAIRMAN MURPHY: Is there a second?

10 COMMISSIONER SHIELDS: Second.

11 CHAIRMAN MURPHY: It's been moved and  
12 seconded. All those in favor say aye.

13 (All said aye.)

14 CHAIRMAN MURPHY: Opposed?

15 Congratulations, Secretary Shields.

16 I now call the roll of the Commissioners.  
17 Commissioner Fine.

18 COMMISSIONER FINE: Present.

19 CHAIRMAN MURPHY: Commissioner Shy.

20 COMMISSIONER SHY: Present.

21 CHAIRMAN MURPHY: Commissioner Morgan.

22 COMMISSIONER MORGAN: Present.

23 CHAIRMAN MURPHY: Commissioner Shields?

24 COMMISSIONER SHIELDS: Present.

25 CHAIRMAN MURPHY: Commissioner Bell.



1 to recognize, Representative Bell's successor is  
2 with us here today. Although he is not the Ranking  
3 Minority Public Policy Member of the Committee,  
4 he's now the Chair of the House of Public Policy  
5 Committee. I'd like to introduce Representative  
6 Bill Davis.

7 (Applause.)

8 EXECUTIVE DIRECTOR YELTON: I'll begin with  
9 our staff report.

10 We have several new faces with us here  
11 today. The first is Kristen Kenley -- stand up,  
12 please -- who is our new administrative assistant.  
13 Kristen, originally from Rockville, is a recent  
14 graduate of Butler University where she majored in  
15 philosophy. She focused her efforts on political  
16 and business internships while at Butler and  
17 pursued a position with the Commission based on her  
18 interest in state government, which we will  
19 probably change very rapidly.

20 Our License Control Counselor, Julien Agnew,  
21 was successfully recruited by the FBI. Replacing  
22 him is Joby Jerrells. Joby. Joby is a Bloomington  
23 native that joins us from the Attorney General's  
24 Office. He was previously a Deputy Prosecutor in  
25 Monroe County and formerly the Director of

1 Regulatory Compliance at the French Lick Casino.  
2 In 2010 Joby was nominated as one of the three  
3 finalists considered by Governor Daniels for  
4 appointment to the Indiana Tax Court.

5 The Governor also tapped Joe Hoage as the  
6 Indiana Public Access Counselor, and replacing him  
7 is Sara Gonso Tate -- Sara -- as our newest staff  
8 attorney. Sara was born and raised in  
9 Indianapolis. She earned her undergraduate degree  
10 from Miami University of Ohio and her law degree  
11 from the Indiana University School of Law  
12 Indianapolis. While in law school, Sara became a  
13 member of the Order of the Barristers and clerked  
14 for three different Indiana judges. Prior to  
15 joining the Gaming Commission, Sara was a contract  
16 attorney for a local law firm and also did policy  
17 research for Indiana University.

18 Dan Roberts -- Dan -- is our newest  
19 Financial Investigator and has been with the  
20 Commission since June the 6th. Dan has a bachelor  
21 of science in business from the Indiana University  
22 Kelly School of Business. He was the Finance and  
23 Accounting Specialist with WellPoint and is a great  
24 addition to our staff.

25 Finally, we welcome Tashina Manuel as our

1 Assistant Controller. Tashina worked as an  
2 accountant with the Indiana State Budget Agency  
3 since February of 2007 where she received a 2011  
4 Governor's Public Service Achievement Award with  
5 their Centralized Accounting Division. She earned  
6 her B.S. and master's in accounting from the IU  
7 Kelly School of Business in Bloomington -- pardon  
8 me -- in Indianapolis.

9 At our last meeting you approved the  
10 transfer of the Grand Victoria riverboat license  
11 from Hyatt Gaming to Full House Gaming. On August  
12 20th -- 19th of this year they conducted a  
13 ribbon-cutting ceremony where they rechristened the  
14 casino as the Rising Star. From all appearances  
15 and information we've received, the Rising Sun city  
16 administration and the previous gaming staff are  
17 most pleased with their new management.

18 The Background and Financial Investigations  
19 Division has concluded its reinvestigation of  
20 Hollywood Casino and supplier PokerTek. Those  
21 reports have been submitted to you in advance and  
22 Directors Garth Brown and Danielle Leek are present  
23 should you have any questions on those two reports.

24 Since the June meeting, the IGC staff has  
25 added ten new individuals to our Exclusion List,

1     which effectively and permanently bars those  
2     patrons from entering any casino in Indiana.

3             Three individuals were observed either  
4     past-posting or pinching their bets while at an  
5     Indiana casino.

6             Six other individuals were observed taking  
7     illegal possession of a TITO, casino chips, or U.S.  
8     currency in excess of approximately \$500 or making  
9     fraudulent cash withdrawals while at an Indiana  
10    casino.

11            The remaining individual, Anthony Forney,  
12    was observed physically attacking another patron in  
13    a robbery attempt while at the Horseshoe Southern  
14    Casino. He was charged with multiple felony  
15    offenses and there is currently a warrant for his  
16    arrest in connection with the incident.

17            For the year 2011, the IGC has placed 45  
18    patrons on the Exclusion List, bringing the total  
19    to 255 individuals who are permanently barred from  
20    entrance to any casino or racino in Indiana.

21            Mr. Gray was quite busy with the labors for  
22    this particular last quarter. We may not have any  
23    rules left after we hear all of these. But  
24    nonetheless, the members of the Casino Association  
25    were granted eight waivers.

1           They may increase the aggregate amount of  
2 checks cashed within seven days from 1,000 to  
3 \$2,500 for in-house cashing and \$5,000 for checks  
4 cashed utilizing a check guarantee service.

5           They are relieved from the requirement to  
6 complete a 100 percent drop of tournament machines  
7 prior to the commencement of each tournament day.  
8 Also, they were given relief from an IGC agent  
9 being contacted at the completion of the tournament  
10 requesting the return of the tournament area to  
11 regular play and for a Commission agent to seal the  
12 tournament EPROM and the regular play EPROM into  
13 the EGD.

14           A visual inspection of playing cards by  
15 players is no longer required to be conducted prior  
16 to the commencement of various table games.  
17 However, should a player ask to visually inspect  
18 the cards prior to the commencement of the game,  
19 the casino is required to comply.

20           The Casino Association may now rotate chip  
21 denominations to \$25 and below only twice weekly.

22           One half of a private Craps table may now be  
23 staffed with one box person, one stick person, and  
24 one base dealer. If the private Craps table has  
25 more than six players, a second base dealer will be

1 added and the entire game table open for play.

2 Before opening a private Craps table, the casino  
3 must inform an IGC gaming agent.

4 A waiver was granted to only inform the  
5 Surveillance Department of fills in the amount of  
6 \$5,000 or more. Once the Surveillance Department  
7 is notified of a fill, they will document amount  
8 and the table game location on the surveillance  
9 log. This waiver is for the fill amounts only.  
10 The procedures for the notification and recording  
11 of table games credits will not be affected.

12 They were also granted relief from the  
13 requirement that surveillance be notified and a  
14 record on the surveillance log any time a slot  
15 department employee enters an electronic gaming  
16 device to conduct a minor repair or maintenance.  
17 The slot employees when accessing the EGDs will  
18 still be required to insert their card in the EGD  
19 as well as complete the log that is maintained  
20 inside the machine.

21 Surveillance will be notified when a bill  
22 validator, a bill validator compartment, or sealed  
23 boards are in need of repair and will visually  
24 record the repair and maintenance and document the  
25 notification in the surveillance log.

1           Finally, they may allow the transfer of  
2 monetary funds between locations for amounts of  
3 \$1,000 or less without a security escort.  
4 Additionally, the casinos requested relief and  
5 received it from a security escort for the movement  
6 of the chips, checks, and cash equivalents that are  
7 transported between casino cashiering areas.

8           Rising Star was granted a waiver to forgo  
9 maintaining any secondary chips of the value of two  
10 dollars and fifty cents. If it would need to pull  
11 the primary two dollar fifty cent chip, the casino  
12 would use the primary one dollar and primary chip  
13 of fifty cents. The casino will also maintain the  
14 one dollar secondary chip at 50 percent in lieu of  
15 utilizing the previously-granted waiver allowing 30  
16 percent.

17           Hollywood was granted a waiver allowing a  
18 progressive jackpot to be immediately moved from a  
19 bank of machines to another progressive on the  
20 casino floor without the required 30-days' notice.

21           Horseshoe Hammond was granted relief on any  
22 progressive slot machines with an immediate jackpot  
23 of \$50,000, that dedicated camera coverage would  
24 not be required until the progressive display reads  
25 a minimum of \$40,000. This is for all slot

1 machines that are not connected to the Paltronics  
2 system. This waiver is granted on the condition  
3 that the accounting/income audit department will be  
4 responsible for verifying daily that the  
5 incrementation is correct on all progressive  
6 machines.

7           Majestic Star was granted a one-time waiver  
8 for the pre-installment of approved themes onto a  
9 server-based gaming system. The verification of  
10 the themes will be completed by an IGC agent and  
11 the agent would also be present at the delivery of  
12 the server.

13           And that, Mr. Chairman and members of the  
14 Commission, concludes the Executive Director's  
15 Report unless there are any questions and I would  
16 be happy to answer.

17           CHAIRMAN MURPHY: Questions? Thank you,  
18 Executive Director Yelton. We'll now move on to  
19 old business.

20           Since there is none, we'll move to patron  
21 matters and the Voluntary Exclusion Program and  
22 Tami Timberman-Wright.

23           MS. TIMBERMAN-WRIGHT: Good afternoon,  
24 Commissioners.

25           You have before you 25 orders regarding the

1 Voluntary Exclusion program. Pursuant to the rules  
2 of the program, the identity of the Voluntary  
3 Exclusion program for participants must remain  
4 confidential. Pursuant to 68 IAC 6-3-2(g), a  
5 participant in the program agrees that if he or she  
6 violates the terms of the program and enters the  
7 gaming area of a facility under the jurisdiction of  
8 the Commission, they will forfeit any jackpot or  
9 thing of value obtained as a result of the wager.

10 Under Orders 2011-141 through 2011-165, a  
11 total sum of \$29,877.84 was forfeited by John Does  
12 66 through 90. These winnings were collected at  
13 Ameristar, Belterra, French Lick, Hollywood,  
14 Hoosier Park, Horseshoe, Horseshoe Southern  
15 Indiana, Indiana Live, Rising Star, and Majestic  
16 Star. These winnings were withheld as required by  
17 Commission regulations.

18 Commission staff recommends that you approve  
19 the remittance of these winnings for John Does 66  
20 through 90.

21 CHAIRMAN MURPHY: Are there any questions of  
22 Ms. Timberman-Wright? If not, is there a motion to  
23 approve orders 2011-141 through 165?

24 COMMISSIONER MORGAN: Motion to approve.

25 COMMISSIONER FINE: Seconded.

1           CHAIRMAN MURPHY: It's been moved and  
2 seconded. All those in favor signify by saying  
3 aye.

4   (All said aye.)

5           CHAIRMAN MURPHY: Opposed? Orders 2011-141  
6 through 165 are approved. Thank you, Ms.  
7 Timberman-Wright.

8           Next up will be the Voluntary Exclusion  
9 program appeals and Derek Young.

10          MR. YOUNG: Thank you.

11                 Before you now is Order No. 2011-166, an  
12 appeal of John Doe No. 17's Voluntary Exclusion  
13 Remittance. John Doe 17 submitted a five-year  
14 application for remittance on October 29, 2009.  
15 January 5th, 2011 he was apprehended at Hollywood  
16 Casino in Lawrenceburg, Indiana after having won a  
17 \$5,416 jackpot. The money was forfeited according  
18 to the terms of the agreement and on March 17, 2011  
19 the Commission approved the remittance of the  
20 jackpot under Order No. 2011-17.

21                 He timely submitted an appeal of the  
22 Commission and admitted to winning the jackpot at  
23 Hollywood Casino. The matter was heard by an ALJ  
24 upon a Motion for Summary Judgment on July 1, 2011,  
25 which he failed to attend. On July 8, 2011 the ALJ

1 granted the Motion for Summary Judgment. He has  
2 not objected to the ALJ's findings and  
3 recommendations. Before you you have the order  
4 approving the ALJ's decision, which would have the  
5 effect of denying John Doe No. 17's appeal of your  
6 March 2011 order. Commission staff recommends you  
7 approve that order at this time.

8 CHAIRMAN MURPHY: Any questions of Mr. Young  
9 regarding the Order 166? If not, is the motion  
10 moved?

11 COMMISSIONER BELL: Moved.

12 COMMISSIONER SHIELDS: I'll second.

13 CHAIRMAN MURPHY: All those in favor of  
14 approval 2011-166 signify by saying aye.

15 (All said aye.)

16 CHAIRMAN MURPHY: Opposed. Order 2011-166  
17 is approved.

18 MR. YOUNG: Thank you.

19 Next is Order No. 2011-167, which is an  
20 appeal of John Doe No. 52's voluntary exclusion  
21 remittance. John Doe 52 submitted an application  
22 for lifetime placement on the VEP list on May 10,  
23 2008. On or about April 7, 2011, she was  
24 discovered at Rising Sun Star Casino in Rising Sun,  
25 Indiana. At that time she'd won \$2,310.50 in cash

1     equivalents from Rising Star Casino. The money was  
2     forfeited according to the terms of the agreement,  
3     and June 2nd, 2011 the Commission approved the  
4     remittance of the jackpot under Order No. 2011-91.

5             She timely submitted an appeal and the  
6     matter was assigned to an Administrative Law Judge.  
7     The ALJ set a telephonic preliminary hearing for  
8     August 2nd, 2011, which she failed to attend.  
9     Commission staff thereafter made a Motion for  
10    Default Judgment. She failed to make a written  
11    response to that motion and the ALJ granted  
12    Commission staff default judgment on September 7,  
13    2011.

14            The order now before you would deny John Doe  
15    No. 52's appeal of your June 2011 order. Under the  
16    Administrative Orders and Procedures Act, the  
17    Commission is required to affirm the ALJ's decision  
18    in this matter because the default judgment was  
19    granted. Commission staff respectfully requests  
20    that you approve the order at this time.

21            CHAIRMAN MURPHY: Any questions of Mr. Young  
22    regarding Order 167? If not, is there a motion to  
23    approve?

24            COMMISSIONER FINE: Move to approve.

25            COMMISSIONER SHY: Second.



1 Under the terms of the VEP agreement, the  
2 IGC is only permitted to seize monies that are won  
3 or obtained as a result of a wager made. After the  
4 review of the relevant documents, the Commission  
5 staff entered into a settlement agreement with John  
6 Doe 65 under which the IGC will refund the \$6,600  
7 to him and he would remain a lifetime member of the  
8 VEP list.

9 The order before you approves the settlement  
10 agreement entered into by Commission staff and John  
11 Doe 65 and Commission staff recommends that you  
12 approve the order at this time.

13 CHAIRMAN MURPHY: Any questions of Mr. Young  
14 regarding Order 2011-168? If not, is there a  
15 motion to approve the order?

16 COMMISSIONER MORGAN: Motion to approve.

17 COMMISSIONER BELL: Second.

18 CHAIRMAN MURPHY: It's been moved and  
19 seconded. All those in favor of approval for  
20 2011-168 signify by saying aye.

21 (All said aye.)

22 CHAIRMAN MURPHY: Opposed? Order 2011-168  
23 is approved. Thank you, Mr. Young.

24 We'll now move on to patron exclusions and  
25 also Derrek Young.

1           MR. YOUNG: Before you now is Order  
2    2011-169, an appeal of the civil penalty against  
3    Patricia Strickland for violation of the terms of  
4    her placement on the Statewide Exclusion List. On  
5    April 21st, 2010 Strickland was placed on the  
6    Statewide Exclusion List barring her presence in  
7    any casino or racino in Indiana.

8           On June 18, 2011 Strickland was discovered  
9    at Ameristar Casino in East Chicago, Indiana in  
10   violation of the terms of her placement on the  
11   Statewide Exclusion List. While in the gaming area  
12   of Ameristar Casino, Strickland won a \$1,506 slot  
13   machine jackpot.

14           On June 28, 2011 Commission staff initiated  
15   civil penalty administrative action by filing a  
16   complaint against Strickland in the amount of the  
17   jackpot for being in violation of 68 IAC 6-1-4.5.  
18   Strickland failed to file an answer to the  
19   complaint and Commission staff made a Motion for  
20   Default Judgment. Strickland failed to file a  
21   written response to that motion and the ALJ granted  
22   Commission staff default judgement on August 23rd,  
23   2011.

24           The order before you now would affirm the  
25   ALJ's findings and recommendation, and the civil

1 penalty seizure for violation of the terms of  
2 placement on the Exclusion List. Under the  
3 Administrative Orders and Procedures Act, the  
4 Commission is required to affirm the ALJ's decision  
5 in this matter of default judgment was granted.  
6 Commission staff respectfully requests that you  
7 approve the order at this time.

8 CHAIRMAN MURPHY: Any questions on Order  
9 169? If not, is there a motion to approve the  
10 order?

11 COMMISSIONER BELL: I move to approve.

12 COMMISSIONER FINE: I second the motion.

13 CHAIRMAN MURPHY: It's been moved and  
14 seconded. All those in favor of approval signify  
15 by saying aye.

16 (All said aye.)

17 CHAIRMAN MURPHY: Opposed? Order 2011-169  
18 is approved.

19 MR. YOUNG: Next is Order 2011-170, an  
20 appeal of Kyle Sanders' placement on the  
21 Commission's Exclusion List. On October 26, 2010  
22 Kyle Sanders was a dealer who was placed on the  
23 Exclusion List after being observed on four  
24 occasions moving tip bets by patrons in order to  
25 increase his odds of winning as well as paying tip

1 bets that were not winning wagers while dealing at  
2 a 21 + 3 Blackjack game. Sanders was then  
3 terminated from his employment at Belterra Casino.

4 On November 8, 2010 Sanders filed an appeal  
5 in this matter, arguing that he lacked the  
6 requisite intent to defraud the casino, had never  
7 been made aware of his violating procedure prior to  
8 the alleged incident, had only received one  
9 disciplinary reprimand from his employer in seven  
10 years as a dealer, and had never been subject to  
11 any Commission disciplinary action.

12 After appearing before the ALJ for a  
13 preliminary hearing, settlement discussions were  
14 initiated and a settlement agreement was entered  
15 into whereby Sanders would withdraw his appeal and  
16 would be allowed to petition the Commission for  
17 removal from the Exclusion List after one year and  
18 six months of his original placement on the list.

19 Sanders will remain on the Exclusion List  
20 until such time he petitions to be removed, at  
21 which time you will be able to make a decision as  
22 to whether to allow him to be removed from the  
23 list. He will be eligible to submit a petition on  
24 April 26, 2012.

25 Before you is the order approving settlement

1 agreement. Commission staff recommends you approve  
2 this order at this time.

3 CHAIRMAN MURPHY: Any questions of Mr. Young  
4 regarding Order 170? If not, is there a motion for  
5 approval?

6 COMMISSIONER SHY: Move to approve.

7 COMMISSIONER MORGAN: Second the motion.

8 CHAIRMAN MURPHY: It's been moved and  
9 seconded. All those in favor of approval of Order  
10 2011-170 signify by saying aye.

11 (All said aye.)

12 CHAIRMAN MURPHY: Opposed? Order 2011-170  
13 has been approved. Thank you, Mr. Young.

14 Next on the agenda will be Suppliers  
15 Licensure and Daniel Leek.

16 MS. LEEK: Good afternoon, Commissioners and  
17 Staff. Before you is Order 2011-171 which will  
18 grant a supplier's license to Multimedia Games,  
19 Incorporated.

20 Multimedia submitted a Supplier's  
21 Application in November of 2010. They design and  
22 manufacture and supply networked and server-based  
23 gaming systems to Native American casinos and  
24 commercial casinos. They were issued a temporary  
25 license in November of 2010 which allowed them to

1 begin selling products in Indiana.

2 Investigator David Charlesworth conducted at  
3 that time a financial investigation on the company,  
4 its substantial owners, and key persons, and found  
5 no derogatory information that would affect  
6 suitability. The final report is available for  
7 your review and staff recommends that you grant the  
8 application.

9 I'd be happy to answer any questions that  
10 you have.

11 CHAIRMAN MURPHY: Questions of Ms. Leek? If  
12 not, is there a motion to approve Order 2011-171?

13 COMMISSIONER BELL: So moved.

14 COMMISSIONER SHIELDS: Seconded.

15 CHAIRMAN MURPHY: It's been moved and  
16 seconded. All those in favor of approval signify  
17 by saying aye.

18 (All said aye.)

19 CHAIRMAN MURPHY: Opposed? Order 2011-171  
20 is approved. Thank you.

21 We'll now move on to License Renewals and  
22 Sherry Green.

23 MS. GREEN: Good afternoon. You have before  
24 you Order No. 2011-172 concerning the renewal of  
25 supplier licenses pursuant to Indiana Code 4-33 and

1 68 IAC 2-2.

2 The Commission has previously approved a  
3 permanent suppliers' license for the following four  
4 companies: Gaming Partners International USA,  
5 Incorporated; Gemaco, Inc.; Global Surveillance  
6 Associates, Incorporated; and PokerTek.

7 A supplier's license is valid for a period  
8 of one year. Pursuant to IAC 4-33-7-8 and  
9 68 IAC 2-2-8, a supplier's license must be renewed  
10 annually and a payment of \$7,500 for the annual  
11 renewal fee must be remitted. Each of these  
12 licensees has requested renewal of their license  
13 and has paid the appropriate renewal fees.

14 The Commission staff recommends that you  
15 approve the renewal of the licenses of the four  
16 suppliers.

17 CHAIRMAN MURPHY: Any questions of Ms. Green  
18 regarding Order 172? If not, is there a motion to  
19 approve the order?

20 COMMISSIONER MORGAN: Motion to approve.

21 COMMISSIONER SHY: I'll second.

22 CHAIRMAN MURPHY: It's been moved and  
23 seconded. All those in favor of approval of Order  
24 172 signify by saying aye.

25 (All said aye.)

1           CHAIRMAN MURPHY: Opposed? Order 2011-172

2    is approved. Thank you, Ms. Green.

3           We'll now move on to Waivers and Garth

4    Brown.

5           MR. BROWN: Good afternoon, Commissioners

6    and Executive Staff. You have before you order

7    2011-173 regarding Transfer of Ownership and more

8    about Indiana suppliers in Atlantic City Coin and

9    Slot Company, Incorporated.

10           On or about October 30, 1995, Atlantic City

11   Coin and Slot, Incorporated, or AC Coin, a

12   privately owned entity, submitted a Supplier's

13   License Application to the Indiana Gaming

14   Commission. AC Coin is a provider of several types

15   of gaming products including slot machines, signs,

16   table games, and progressive controllers.

17           On February 26th, 1999 the Commission

18   granted AC Coin a permanent Supplier's License to

19   operate and sell products to Indiana casinos.

20   Currently, AC Coin is owned by the Seelig family

21   with Max Seelig holding approximately 68 percent of

22   the interests. Because of his ownership, Max was

23   investigated by the Commission and found suitable

24   to hold a license.

25           On May 23rd, 2011, the Commission received

1 notice from AC Coin that due to estate planning  
2 purposes Mr. Seelig wished to transfer his interest  
3 in AC Coin into a trust of which  
4 Mr. Seelig would be the sole trustee.

5 Because he's previously been investigated  
6 and found suitable, Commission staff believes a  
7 waiver of the transfer of ownership application  
8 requirements outlined in 68 IAC 5-2-2(a) is  
9 appropriate. This would alleviate Mr. Seelig who  
10 is already licensed by the Commission from having  
11 to submit application in this transfer of his  
12 shares.

13 Commission staff recommends the approval of  
14 the waiver of 68 IAC 5-2-2(a).

15 CHAIRMAN MURPHY: Any questions of Mr. Brown  
16 on Order 173? If not, is there a motion to approve  
17 Order 2011-173?

18 COMMISSIONER SHIELDS: I move.

19 COMMISSIONER MORGAN: Seconded.

20 CHAIRMAN MURPHY: Thank you. Order 2011-173  
21 has been approved, Mr. Brown.

22 We'll now move on to Occupational Licensees  
23 and Derek Young.

24 MR. YOUNG: Before you now is Order No.  
25 2011-174 regarding Keith A. Jordan's occupational

1 license.

2 On or about April 14, 2011 Mr. Jordan  
3 submitted a Level 3 occupation license application  
4 and was granted a temporary Level 3 license. He  
5 was later issued a permanent license.

6 On March 11, 2011 Jordan pleaded guilty to  
7 possession of a Schedule II controlled substance,  
8 which is a D felony, in Cause No.  
9 58C01-1005-FD-0035 in the Ohio County Circuit  
10 Court. He was sentenced to court costs and fines  
11 and three years probation.

12 As a result of this felony conviction, Mr.  
13 Jordan has failed to maintain suitability for  
14 licensure by violating IC 4-33-8-3, which forbids  
15 the issuance of an occupational license to any  
16 individual who has been convicted of a felony under  
17 the laws of the State of Indiana or any other state  
18 or jurisdiction.

19 On April 7, 2011 the Commission filed a  
20 disciplinary complaint before the administrative  
21 law judge seeking to revoke Mr. Jordan's occupation  
22 license for failure to maintain suitability for  
23 licensure. The Commission later filed a Motion for  
24 Summary Judgment, which was granted on July 1st,  
25 2011 by the ALJ following the hearing.



1 and consulted with Commission Financial Analyst  
2 David Charlesworth, CFA.

3 Chairman Murphy and Director Yelton approved  
4 the proposed financing plan should be approved and  
5 Director Yelton issued an interim approval letter  
6 on September 7th, 2011. The proposed financing was  
7 described in a confidential interim approval letter  
8 dated September 7th, 2011 and confidential  
9 documents provided to the Commission.

10 Resolution 2008-74 requires that the interim  
11 approval letter be reported to you for  
12 consideration and final ratification under the  
13 direction from the Commission.

14 Commission staff recommends that you ratify  
15 Executive Director Yelton's interim approval  
16 letter.

17 CHAIRMAN MURPHY: Any questions of  
18 Mr. Nuenschwander on Order 175? If not, is there a  
19 motion to approve Order 2011-175?

20 COMMISSIONER SHY: I move to approve.

21 COMMISSIONER FINE: Second.

22 CHAIRMAN MURPHY: It's been moved and  
23 seconded. All those in favor of approval signify  
24 by saying aye.

25 (All said aye.)

1           CHAIRMAN MURPHY:   Opposed?   Order 2011-175

2   is approved.

3           MR. NUENSCHWANDER:   Order 2011-176,

4   financing matter from Penn National.

5           On June 8th, 2011 Penn National Gaming  
6   through counsel requested a waiver of the proposed  
7   activity financing plan.  In accordance with the  
8   procedure identified under Resolution 2008-74,  
9   Commission Chairman Tim Murphy and Executive  
10   Director Ernest Yelton considered the request and  
11   consulted with Commission Financial Analyst  
12   Stephanie Berry.

13           Chairman Murphy and Director Yelton agreed  
14   that the proposed financing plan should be approved  
15   and Director Yelton issued an interim approval  
16   letter on July 13th, 2011.  This proposed financing  
17   plan was described in a confidential interim  
18   approval letter dated July 13th and also in  
19   confidential documents provided to the Commission.

20           Resolution 2208-74 requires that the interim  
21   approval letter be reported to you for  
22   consideration and final ratification by the  
23   Commission.  As with the last one, Commission staff  
24   recommends that you ratify Executive Yelton's  
25   interim approval letter.



1 on August 1st, 2011. The proposal was described in  
2 confidential documents provided to the Commission  
3 and also an interim approval letter which was dated  
4 August 1st.

5 Resolution 2008-74 requires that interim  
6 approval be reported to you for consideration and a  
7 final ratification from the Commission. Commission  
8 staff recommends that you ratify Executive  
9 Director's interim approval letter.

10 CHAIRMAN MURPHY: Any questions of  
11 Mr. Nuenschwander on Order 177? If not, is there  
12 a motion for approval of Order 2011-177?

13 COMMISSIONER MORGAN: Motion for approval.

14 COMMISSIONER SHIELDS: Seconded.

15 CHAIRMAN MURPHY: It's been moved and  
16 seconded. All those in favor signify by saying  
17 aye.

18 (All said aye.)

19 CHAIRMAN MURPHY: Opposed? Order 2011-177  
20 is approved. Thank you, Mr. Nuenschwander.

21 Next on the agenda will be disciplinary  
22 actions and Chris Gray.

23 MS. GRAY: Good afternoon, Commissioners.  
24 You have before you ten settlement agreements  
25 concerning disciplinary actions.

1           The first settlement is Aztar,  
2   Order 2011-178 wherein the casino allowed two  
3   underage patrons onto the casino floor. Aztar has  
4   agreed to a monetary settlement of \$4,500 in lieu  
5   of disciplinary action.

6           Are there any questions?

7           The second order, 2011-179, is a settlement  
8   agreement with Belterra and includes two counts.  
9   In the first count the casino failed to follow the  
10  proper procedures for redeeming TITO tickets and  
11  chips.

12          The second count violated the rule requiring  
13  slot machines to be capable of detecting and  
14  displaying when a door is open. Belterra has  
15  agreed to a monetary settlement of \$10,000 in lieu  
16  of disciplinary action.

17          Are there any questions concerning this  
18  order?

19          The third order, 2011-180, is a settlement  
20  agreement with French Lick wherein the casino  
21  allowed numerous employees access to information at  
22  a level that they were not licensed for. French  
23  Lick has agreed to a total monetary settlement of  
24  \$2,500 in lieu of a disciplinary action.

25          Are there any questions?

1           Order 2011-181 is a settlement agreement  
2     with Hollywood which includes six counts. In the  
3     first count the casino failed to realize an  
4     incorrect fill was sent to a table game until the  
5     cage cashier ended her shift with a variance.

6           The second counted violated the rule  
7     regarding the timely notification of a terminated  
8     employee to the IGC agents.

9           In the third count the proper procedures for  
10    a poker room exchange were not followed.

11          In the fourth count an underage person was  
12    allowed on the casino floor on three separate  
13    occasions.

14          Count 5 violated the Internal Controls  
15    outlining the procedures for payment of a table  
16    game jackpot over \$600.

17          The six count violated the proper procedures  
18    for a fill that was incorrect.

19          Hollywood has agreed to a monetary  
20    settlement of \$31,000 in lieu of disciplinary  
21    action.

22          Are there any questions?

23          COMMISSIONER SHY: I have a question.

24          In light of the number of issues we've seen  
25    in the past and at this time being six, how do you

1 feel Hollywood's doing in terms of addressing  
2 these?

3 MS. GRAY: I feel that the management staff  
4 that is in place at this time, they are working on  
5 trying to resolve these issues. However, I feel  
6 that this has been a cultural issue and it's going  
7 to take a while to filter down to all the casino  
8 members and staff members in order to be in  
9 compliance with the rules.

10 COMMISSIONER SHY: Okay.

11 MS. GRAY: I do -- however, they do have a  
12 new general manager, so we'll see how it goes.

13 CHAIRMAN MURPHY: Ms. Gray, one particular  
14 one here, the underage vendor being allowed access  
15 to the floor, the casino floor, third, fourth, and  
16 fifth time in six months, and I remember at the  
17 last -- I think Commissioner Shy was opposed to a  
18 16-count disciplinary action in our last meeting  
19 and this was -- a number of offenses were -- are  
20 they doing anything specific to get a handle on  
21 that?

22 MS. GRAY: I think they're trying several  
23 things to alleviate this. I know this isn't a  
24 pleasant one for them. They have put up a new  
25 banner announcing that you need to be 21 to go onto

1 the casino floor. They are working with their  
2 security employees to try to get them to make sure  
3 that they do check for the -- do the identification  
4 checks that they're supposed to be doing. So I  
5 think the casino is working towards trying to  
6 alleviate this kind of violation.

7 CHAIRMAN MURPHY: Do they have a -- some of  
8 the casinos I know, they have a separate line for  
9 anyone under 30 years old.

10 MS. GRAY: They do have that and they have  
11 had it for a while.

12 CHAIRMAN MURPHY: Thanks.

13 MS. GRAY: Any other questions?

14 Order 2011-182 is a settlement agreement  
15 with Hoosier Park which includes two counts.

16 In the first count the soft count door was  
17 not secured properly.

18 In the second count a locked cart containing  
19 an NRT cassette with money in it was not properly  
20 secured for approximately 15 hours.

21 Hoosier Park has agreed to a monetary  
22 settlement of \$5,000 in lieu of disciplinary  
23 action.

24 Are there any questions?

25 Order 2011-183 is a settlement agreement

1 with Horseshoe Hammond wherein the casino violated  
2 the rules ensuring that the VEP members do not  
3 receive direct marketing.

4 Horseshoe Hammond has agreed to a monetary  
5 settlement of \$1,500 in lieu of disciplinary  
6 action.

7 Are there any questions?

8 Order 2011-184 is a settlement agreement  
9 with Horseshoe Southern Indiana wherein the casino  
10 failed to ensure that a bill validator box  
11 contained a separate lock to access the contents of  
12 the box.

13 Horseshoe Southern Indiana has agreed to a  
14 total monetary settlement of \$1,500 in lieu of  
15 disciplinary action.

16 Are there any questions?

17 The eighth order, 2011-185, is a settlement  
18 agreement with Indiana Live wherein the casino  
19 allowed a person under the age of 21 onto the  
20 casino floor on two separate occasions.

21 Indiana Live has agreed to pay a monetary  
22 settlement of \$4,500 in lieu of disciplinary  
23 action?

24 Are there any questions?

25 Order 2011-186 is a settlement agreement

1 with Majestic Star wherein the casino allowed a VEP  
2 to participate in a Blackjack tournament.

3           Majestic Star has agreed to pay a monetary  
4 settlement of \$1,500 in lieu of disciplinary  
5 action.

6           Are there any questions regarding this  
7 order?

8           The final order, 2011-187, is a settlement  
9 agreement with Rising Star wherein the casino  
10 allowed a patron in the bill validator drop area.

11           Rising Star has agreed to a monetary  
12 settlement of \$2,500 in lieu of disciplinary  
13 action.

14           Are there any questions regarding this  
15 order?

16           The Commission staff recommends that you  
17 approve orders 2011-178 through 2011-187, each of  
18 which approves one of the settlement agreements  
19 that we have just discussed.

20           CHAIRMAN MURPHY: Commissioners, is there a  
21 motion to approve Orders 178 through 187?

22           COMMISSIONER MORGAN: Motion to approve.

23           COMMISSIONER SHY: I'll second.

24           CHAIRMAN MURPHY: It's been moved and  
25 seconded. All those in favor of approval of Orders

1 2011-178 through 187 indicate by saying aye.

2 (All said aye.)

3 CHAIRMAN MURPHY: Opposed? Orders 2011-178  
4 through 187 are approved. Thank you, Ms. Gray.

5 MS. GRAY: Thank you.

6 CHAIRMAN MURPHY: We'll now move on to  
7 Ownership Transfers and Adam Packer.

8 MR. PACKER: Thank you, Mr. Chairman.

9 On March 6, 2010 the ultimate parent of  
10 Hoosier Park, Centaur LLC, filed for bankruptcy  
11 relief. Centaur is now preparing to emerge from  
12 bankruptcy, and one component of their emergence is  
13 Commission's consideration of various parts of  
14 their reorganization plan. I think I understand it  
15 pretty well, but luckily you won't have to find out  
16 one way or the other. My understanding is that  
17 there are representatives from Centaur here to  
18 discuss the plan and a portion of it requiring  
19 Commission approval.

20 So I'll turn the microphone back over to  
21 you, Mr. Chairman.

22 CHAIRMAN MURPHY: Thank you. Mr. Ratcliff,  
23 are you ready now?

24 MR. RATCLIFF: Good afternoon. My name is  
25 Ron Ratcliff and I am the CEO and Chairman of the

1 Board of Centaur.

2 It is my contention today to do a  
3 presentation by thanking Chairman Murphy, the  
4 members of the Indiana Gaming Commission, Executive  
5 Director Ernie Yelton, Deputy Directory Jenny  
6 Reske, General Counsel Adam Packer, and Director of  
7 Investigations Garth Brown, and all the Commission  
8 staff for your patience, good counsel, and  
9 encouragement throughout the bankruptcy process.

10 To regress, in March 2010 Centaur filed for  
11 Chapter 11 bankruptcy protection for one of the  
12 greatest professions in modern times. The company  
13 was faced with the challenge of a \$250 million  
14 gaming license fee and a high gaming tax rate.  
15 Largely due to the hard work of the Indiana Gaming  
16 Commission, we were able to move quickly through  
17 the restructuring process.

18 The Commission's counsel produced a path for  
19 restructuring that allowed nearly all of Centaur's  
20 vendors, including many Indiana small businesses, a  
21 substantial and in many cases a complete financial  
22 recovery. The vast majority of these businesses  
23 will continue to do business with Hoosier Park and  
24 participate in the bright future. The confidence  
25 demonstrated by the Indiana Gaming and Racing

1 Commission and the Hoosier Park Racing management  
2 team ultimately helped the homegrown Indiana  
3 company survive.

4           With existing management intact, we've  
5 emerged from bankruptcy with a strong balance  
6 sheet. Hoosier Park will continue to provide a  
7 bright future for our team members. We will  
8 continue to offer the highest entertainment value  
9 and we will continue to seek new opportunities to  
10 benefit the local and surrounding communities with  
11 good corporate structure.

12           Centaur's been able to emerge from  
13 bankruptcy a stronger company and has fought a  
14 difficult and painful process. That deserves  
15 comment. The leadership demonstrated by the  
16 Hoosier Park management team and Jim Brown greatly  
17 reduced the stress of the restructuring process  
18 felt by our customers, vendors, and team members  
19 and all of their families.

20           The decision to seek Chapter 11 protection  
21 was made by only as a last-resort situation.  
22 Bankruptcy is not something I personally wished I'd  
23 ever have to go through and ever see. I can speak  
24 for the entire Hoosier Park team when I say we are  
25 glad to be putting this painful process behind us.

1           The development of Hoosier Park Racing and  
2 Casino has been my personal dream for more than 20  
3 years. Due to drastic efforts and the commitment  
4 of our Hoosier Park team, members, Centaur staff,  
5 General Assembly, Indiana Gaming and Racing  
6 Commission, and, of course, our customers, we would  
7 have nothing without them, the reality of this  
8 dream continues.

9           Hoosier Park is an Indiana company which has  
10 employed more than 1,000 people. It is the No. 1  
11 tourist destination for the Indianapolis and  
12 surrounding area and has become a favorite  
13 destination for gaming, racing, and entertainment  
14 in the Midwest.

15           Cooperation with our lenders was the last  
16 step that we needed, and we have that with  
17 clear-cut and micro factor to have a successful  
18 conclusion of our bankruptcy process. Clairvest is  
19 a company specializing in profitable resolve in  
20 American companies including gaming. Since this we  
21 will continue to benefit from the support of their  
22 investment and its partners, bringing with them  
23 financial strengths and experience.

24           Together with Clairvest and our continued  
25 commitment to compliance and the integrity of

1 gaming and racing in Indiana we will remain  
2 steadfast and will serve as the examples through  
3 others.

4 I would now like to introduce Mr. Michael  
5 Wagman, President and Managing Director. Michael's  
6 presence here today is a testament to the  
7 solidarity in our purpose and our appreciation of  
8 the timing and support of the Indiana Gaming  
9 Commission. Mr. Mike Wagman.

10 MR. WAGMAN: Thank you, Ron.

11 Good afternoon. On behalf of Clairvest, I'm  
12 delighted to be here today. Clairvest has a long  
13 history of backing local owners and operators in  
14 many jurisdictions across North America. As Rod  
15 mentioned, it has been a long and painful road to  
16 get here today for Clairvest, as far as investing,  
17 this was a first for us.

18 When we looked to analyze different  
19 opportunities on behalf of Clairvest, we looked at  
20 three different criteria. We looked at the  
21 stability of the regime, the quality of the assets,  
22 and the depth of the management team. And in this  
23 opportunity, we think that this opportunity was  
24 second to none of any that we've ever seen. So  
25 despite the long and painful road we had to get

1     there, we truly support them and we remain  
2     committed.

3             We also look forward to working with the  
4     Commission in the correct manner and back with  
5     management in any way possible to make them  
6     succeed.

7             With that, I will pass the floor over to  
8     Phil Bayt who will go over in greater detail on the  
9     emerging plan.

10            MR. BAYT: Good afternoon, Chairman,  
11     Executive Director Yelton, Commission, and staff.  
12     As I see, Adam Packer is handing out copies of the  
13     slides that we'll be going through today for your  
14     ease of reference. I appreciate that.

15            Centaur's goal was to emerge as a  
16     financially-sound company from bankruptcy with a  
17     structure that maintains the integrity of gaming,  
18     racing, and the overall regulatory environment, and  
19     it's going to meet that goal. Centaur has also  
20     been successful in maintaining the continuity of  
21     management so that regulators, customers, horsemen,  
22     and the community it serves have a seamless  
23     experience in working with the Hoosier Park team.

24            Before it filed for bankruptcy, Centaur had  
25     a very complicated corporate structure, to

1 accommodate a casino in Colorado, which you'll see  
2 on the far left of the whole chart, these  
3 operations at Hoosier Park in Indiana, its  
4 potential operation in Pennsylvania called Valley  
5 View Downs, and on the far right land left over  
6 from an early site in Pennsylvania.

7 In the next slide you'll see that emerging  
8 from bankruptcy, the new Centaur will be a much  
9 more streamlined organization. Valley View,  
10 Pennsylvania has been sold and is excluded off the  
11 chart. Colorado had been sold and the only  
12 remaining entity is the blue entity on the  
13 left-hand side of the chart which reflects the fact  
14 that the Colorado entity has taken vats of paper  
15 and when that paper is paid back by the new  
16 purchaser, that entity will go away.

17 On the far right-hand side we see the box  
18 that reflects the land that is the original site of  
19 the Pennsylvania application. And when that land  
20 is disposed of, that will go away leaving only the  
21 operating entities in the middle of the chart, the  
22 Hoosier Park and the pairing organizations.

23 In the next slide you'll see the debt  
24 structure. The proposed new debt totals \$273.7  
25 million and it's made up of three tiers. The first

1 tier is the first lien loan at \$160 million. The  
2 second is a lien loan for \$62 million, and the  
3 third is an unsecured term loan, which we'd also  
4 call a pig note, for \$51.7 million.

5 The term pig note refers to the fact that  
6 interest is paid in kind; that is, it accrues  
7 during the term of the loan. The term loan also  
8 carries with it a set of warrants. Those warrants  
9 when exercised would give the holders of the  
10 warrants an equity state in the company. That  
11 interest would not be subject to all appropriate  
12 regulatory approvals if and when they would occur  
13 and all those warrants and the terms of the  
14 agreement would have to be met and exercised at one  
15 time.

16 In order to fund this new package, the  
17 lender requires some certainty on the transfer fee  
18 issue, and that became a requirement in the  
19 confirmed bankruptcy plan. The law exempts the  
20 current transfer because it is occurring in the  
21 context of a bankruptcy. The law also provides  
22 that a transfer fee is only applicable to the  
23 initial licensee. A future transfer would not be  
24 applicable in this situation because it would be a  
25 transfer by a subsequent licensee.

1           To comply with the bankruptcy plan and to  
2 provide the lenders the comfort that they need to  
3 fund the debt package, Centaur is respectfully  
4 requesting that the order, should one be issued  
5 today, include language to the effect that this  
6 transfer is not subject to the transfer fee and  
7 that at least under current law that future  
8 transfers would also not be subject to a transfer  
9 fee.

10           In the next slide we can focus on ownership  
11 structure. The ownership of the company will be  
12 divided into two classes. Class A and those  
13 members will consist overwhelmingly with a  
14 management team with a very small percentage being  
15 held by the other board members.

16           As the performance descended through the  
17 management team, a new class will also be issued  
18 that provides payouts at three different levels of  
19 success to the management team members depending  
20 upon the success of the company. Your investing  
21 requirements sent those team members to be able to  
22 stay with the company and to be able to achieve  
23 those invested levels.

24           On the next slide we can see that the board  
25 structure consists of a five-person board. The

1 holders of the Class A equity units will have a  
2 voting member representative reflected on your  
3 slide by the red box up at the top circle. Moving  
4 around clockwise, the holders of the term loan will  
5 appoint four voting members; three of those seats  
6 will be held by one person and the fourth will be  
7 held by a second person. Those are reflected on  
8 the blue boxes as you go around clockwise.

9           There's an independent manager reflected by  
10 the purple box on your slide that is held by an  
11 independent board member. Rounding out the circle  
12 in the green box is a non-voting management  
13 representative. The backgrounds of all the  
14 potential board members have been submitted to the  
15 staff for approval.

16           With the new debt equity and board  
17 structure, the new Centaur is poised to emerge from  
18 bankruptcy and continue its strong operational  
19 performance.

20           I'd be happy to answer any questions about  
21 this aspect of the presentation now or at the end  
22 of the presentation at the pleasure of the Chair.

23           CHAIRMAN MURPHY: Thank you, Mr. Bayt.

24           MR. BAYT: With that I'd like to introduce  
25 Jim Brown, the president of Centaur, to talk about

1 the operational success and the future operational  
2 success of Hoosier Park.

3 MR. BROWN: Good afternoon, Chairman Murphy,  
4 Commissioners, Executive Director Yelton, and  
5 executive staff members of the Indiana Gaming  
6 Commission. My name is Jim Brown and I am the  
7 chief operating officer for Hoosier Park.

8 Rod talked about solidarity and commitment,  
9 and there were some of our team members that wanted  
10 to join us today. So quickly, could our Hoosier  
11 Park Centaur senior management staff team members  
12 please stand. Thank you.

13 I've resided in Indiana now for almost half  
14 my life. I'm a graduate of the Indiana University  
15 Kelly School of Business and I'm also Indiana's  
16 first operations-related gaming license holder. I  
17 opened Indiana's first riverboat gaming facility,  
18 Casino Aztar Evansville, in 1995 and successfully  
19 served as the president and general manager of that  
20 facility for over 12 years.

21 I also have had an opportunity to watch the  
22 first token go into Indiana's first slot machine in  
23 December of that year. I felt then and I feel now  
24 passionately and with a strong sense of  
25 responsibility and commitment to the purpose of my

1 company, our investors, our employee team, our  
2 customers, our host community, and the state of  
3 Indiana.

4 I joined Ron Ratcliff and Centaur in 2007 at  
5 the time to develop and open Hoosier Park Racing  
6 and Casino. And that was principally because I saw  
7 the same set of values in Rod and in Centaur as a  
8 company. When the initial enabling legislation was  
9 passed in 2007 allowing slot machines in Indiana's  
10 race tracks, owners and operators were taxed with a  
11 primary set of goals and responsibilities that were  
12 critically important to the economic growth by  
13 those communities in the state of Indiana.

14 They included a hand in horse racing,  
15 agribusiness, breeding, racing at Indiana's race  
16 tracks, providing economic investment, increasing  
17 revenues to city, county, and state government, the  
18 creation of the jobs, expanding area tourism, and  
19 providing tax relief for property tax relief for  
20 Indiana citizens.

21 When we opened Hoosier Park on June 2nd,  
22 2008, we made the commitment to provide our  
23 customers with a seemly, integrated first-class  
24 dining, racing, gaming, and entertainment facility,  
25 that we would provide them outstanding products,

1 first-class services delivered by friendly  
2 service-oriented employees.

3           We would operate our facility responsibly  
4 and with integrity. We would be outstanding core  
5 citizens and community partners. We would comply  
6 with applicable rules associated with our licensure  
7 and we would maximize economic assets to our local  
8 community and the state of Indiana.

9           As Ron has discussed, we spent our last 18  
10 months operating Hoosier Park while in bankruptcy.  
11 During that time, we have enthusiastically operated  
12 Hoosier Park. We've maintained and often enhanced  
13 our products, our level of service, our  
14 relationships with our customers, and have  
15 developed -- further developed our affiliations  
16 with our employee team, our vendors, our community,  
17 and our state. We've also maintained an excellent  
18 record of regulatory compliance and we've sustained  
19 our workforce.

20           In these economic times and while operating  
21 in bankruptcy, we made no layoffs during our  
22 bankruptcy, and, in fact, have grown and improved  
23 our business. You all saw us at our worst and we  
24 behaved at our best. From the time our new  
25 facility opened, we've continued to provide

1 economic benefits to all of our major recipients.

2           The state of Indiana received \$250 million  
3 for property tax relief, in total the state of  
4 Indiana has received \$435 million from our  
5 operation, our city and county have received \$21  
6 million, and the horse racing industry has received  
7 \$93 million to date from the Hoosier Park  
8 operation.

9           We made a commitment to develop a local  
10 workforce. Our workforce now totals over one  
11 thousand. Over 50 percent are Anderson residents  
12 and 99 percent are Indiana residents. We made a  
13 commitment to support local vendors. Of our 120  
14 million in qualifying purchases, 77 million of  
15 these purchases are made by local -- to local and  
16 regional vendors, 14 million to women-owned  
17 businesses, and 13 million to minority-owned  
18 businesses.

19           We've enjoyed an outstanding relationship  
20 with the horse racing industry during this time.  
21 In addition to over \$90 million in additional purse  
22 and redevelopment payments made to our gaming  
23 revenues, we've maintained an excellent  
24 relationship with our racing industry regulators,  
25 our gaming customers, and are, in fact, in the

1 process of completing a new downtown off-track  
2 waging facility on Pennsylvania Street in downtown  
3 Indianapolis.

4 We've welcomed over 9 million visitors to  
5 our facility, and that number continues to grow.  
6 We've been a proactive corporate citizen and  
7 community partner and have demonstrated the strong  
8 commitment through time, resources, and monetary  
9 support for over 200 area agencies, charities, and  
10 other worthwhile causes. Our management staff now  
11 sits on over 40 area boards.

12 Personally in addition to serving as the  
13 2011 and 2012 campaign Chairman for the United Way  
14 of Madison County, I also professionally served as  
15 the Chairman for the Casino Association of Indiana,  
16 a position that I served in from 2002 to 2007 and  
17 now from 2009 to present. Our sense of commitment  
18 and responsibility to all of our constituents is  
19 comprehensive.

20 In closing, we are an Indiana-based and  
21 managed company. We are now on solid, sound  
22 financial footing. We are committed to the  
23 well-being and growth of our workforce, to the  
24 entertainment experience of our customers, to  
25 attaining superior financial and operating results,

1 and to maximize the economic benefits to the city  
2 of Anderson, Madison County, and the state of  
3 Indiana. We look forward to our relationship with  
4 Michael and Clairvest and we look forward to a new  
5 day ahead of opportunity and achievement and a  
6 brighter future. And I thank you for your time  
7 today and I would like to reintroduce Rod.

8 MR. RATCLIFF: Thank you, Jim.

9 In closing, our company would like to thank  
10 the Commission and its staff for all the time and  
11 consideration given to me and my company. I am  
12 immensely grateful, and I really mean that. For  
13 many years to come, the Commission can expect what  
14 they've always expected from us, integrity and  
15 excellence in operation. We will leave bankruptcy  
16 and emerge the strongly-growing company that we  
17 promise. Thank you.

18 CHAIRMAN MURPHY: Thank you.

19 Mr. Packer, do we need to revisit the order?

20 MR. PACKER: The Commission staff is asking  
21 the Commission to consider three components of  
22 Centaur's reorganization. Centaur has just asked  
23 the Commission to consider another component of  
24 Centaur's reorganization.

25 The three components that the Commission

1 staff is asking for the Commission to consider are  
2 the transfer of the license from Hoosier Park, LP  
3 to Hoosier Park, LLC.

4 The second component that the staff is  
5 asking the Commission to consider is the approval  
6 of Centaur Holdings, LLC and Hoosier Park's  
7 ultimate parent.

8 And finally, the staff is asking the  
9 Commission to consider the financing package that  
10 Mr. Bayt explained including the first lien loan  
11 and revolver, the second lien loan, and the  
12 unsecured loan that Mr. Bayt described in his  
13 presentation.

14 All of those transactions qualify in that  
15 transaction under 68 IAC 5-3. Centaur has  
16 requested the Commission approve these transactions  
17 today instead of the usual process where we give an  
18 interim approval and the transaction is approved at  
19 a later date. The Commission staff has completed  
20 the investigation of all applications and all  
21 requests and will recommend at this time approval  
22 of the transfer of the license, approval of Centaur  
23 Holdings as the ultimate parent, and the approval  
24 of the financing.

25 The Commission staff has not issued a

1 recommendation on Mr. Bayt's request that the order  
2 contain language that future transfers of the  
3 license will not result in a transfer fee.

4 CHAIRMAN MURPHY: Thank you, Mr. Packer.

5 EXECUTIVE DIRECTOR YELTON: To explain it a  
6 little further, it's not I'm going to take legal  
7 issue with what Mr. Bayt has said. It's just that  
8 the staff believes that this Commission should not  
9 take action that would impact a future transaction  
10 that may have to be considered by an entirely  
11 different Commission and under entirely different  
12 laws. So that is not recommended regarding that  
13 request.

14 CHAIRMAN MURPHY: All right.

15 Well, Mr. Packer, am I right in thinking  
16 that the request to have this language specifically  
17 in the order is really already covered in the  
18 statutes?

19 MR. PACKER: The language -- that's right.  
20 The language that Centaur wants to put in the order  
21 is language that's in the racino act that states  
22 that any subsequent transfer of license after the  
23 initial transfer is not subject to the \$50 million  
24 transfer fee. What Mr. Bayt has stated and  
25 requested is that because of requests of their

1 lenders for more satisfaction and more sure result  
2 of that, they put in the bankruptcy plan that the  
3 order should have its language in it. And perhaps  
4 it's appropriate for Mr. Bayt to answer some of  
5 these questions, if the Commissioners would like.  
6 I would leave it up to you, Mr. Chairman. But  
7 that's my understanding.

8 CHAIRMAN MURPHY: Do the Commissioners have  
9 any questions of Mr. Bayt?

10 COMMISSIONER BELL: Mr. Bayt, is there  
11 feeling that the existing racino statute does not  
12 provide adequate protection for --

13 MR. BAYT: The sense of the matter is that  
14 the valuation proposition with respect to the  
15 overall bankruptcy combination, the value of the  
16 company and relationship and overall debt, could  
17 only bear a balancing act, if you will, if there  
18 was no transfer fee, and that's understood by all.

19 There's also a prior history of the transfer  
20 fee as it emerged in Indiana over time that costs  
21 and concerns in the lender market in the prior  
22 years, and as a result there was a desire on the  
23 part of the creditors in the plan and the potential  
24 lenders in the plan that there be some comfort,  
25 some clarity, and some confirmation as to what the

1 current law is by the Commission itself.

2 Not that there would be an insurance that  
3 the law wouldn't change in the future or that it  
4 would be in any way binding if the law were in fact  
5 to change; rather, there was a request that for the  
6 sake of clarity and for the sake of certainty,  
7 that we all understood that we agreed how to  
8 interpret it and what the correct law said in the  
9 context of a future transfer.

10 COMMISSIONER FINE: It seems to me that's  
11 the place for the legal opinion of the lender, it's  
12 not really our place.

13 MR. BAYT: It does -- it does focus on the  
14 fact that when a party makes a financial decision  
15 whether it's debt or equity, that it wants to  
16 understand what the regulatory environment would be  
17 in terms of what would happen when that investment,  
18 whether it's debt or equity, would have, if you  
19 will, an exit plan; that is, to pay off the  
20 refinancing or the sale of the enterprise. And in  
21 the case of the sale of the enterprise, there was a  
22 potential for a licensing fee if it were a transfer  
23 of the initial licensee.

24 Here we are focusing on the fact that we  
25 don't have that initial licensee in the future and

1 we also have an exception for this particular  
2 transaction, even though it would be an initial  
3 licensee. What the lenders are attempting to get  
4 is a confirmation that you see it the way that we  
5 see it. And they take more comfort from  
6 interpretation from the Commission than, frankly,  
7 from the interpretation from myself.

8 COMMISSIONER FINE: But we're not even  
9 looking at it right now.

10 MR. BAYT: I understand. I understand. But  
11 if you were to look at it and if today's law would  
12 be applied, the question is: How would you  
13 interpret it.

14 EXECUTIVE DIRECTOR YELTON: May I ask a  
15 question?

16 MR. BAYT: Absolutely.

17 EXECUTIVE DIRECTOR YELTON: You're a very  
18 good lawyer, and I mean that sincerely.

19 If the Commission would adopt this on  
20 representations of colleagues next year, is it  
21 reasonable to assume that you and a new purchaser  
22 would already --

23 MR. BAYT: No. If the law were to change,  
24 then what this Commission -- all we're asking the  
25 Commission today is to say what their

1 interpretation of the current statute is, not to in  
2 any way have to bind the Commission or future  
3 legislature from any change in the law. But if the  
4 law were not to change, what we're asking is this  
5 is the way the Commission interprets it under the  
6 statute today.

7           So there's no attempt to grandfather, if you  
8 will, a position of the Commission that would in  
9 fact be applicable should the legislature change  
10 the law.

11           EXECUTIVE DIRECTOR YELTON: Thank you.

12           CHAIRMAN MURPHY: Mr. Bayt, is the financing  
13 absolutely conditioned on this language being in  
14 the resolution?

15           MR. BAYT: The bankruptcy plan that has been  
16 confirmed contains an express provision requiring a  
17 statement from the gaming regulators that the  
18 subsequent transfer fee is not going to be  
19 applicable under the current law in this situation,  
20 and I provided a copy of that relevant language to  
21 the staff.

22           CHAIRMAN MURPHY: Is that offered to the  
23 bankruptcy court as part of the plan?

24           MR. BAYT: That was required as part of the  
25 plan.

1           CHAIRMAN MURPHY: By the bankruptcy court?

2           MR. BAYT: As part of the order of the  
3 bankruptcy court.

4           COMMISSIONER FINE: If I heard you  
5 correctly, and maybe I didn't, but you said that  
6 they were looking -- that part of the plan, and I  
7 haven't read the language, they were looking for an  
8 insurance that a subsequent transfer would not  
9 create an obligation for a fee.

10          MR. BAYT: Under the current law, correct.

11          COMMISSIONER FINE: Again, I keep going back  
12 to that legal opinion to a lender. I don't know --  
13 I'm not sure that's our place.

14          MR. BAYT: I appreciate the fact that the  
15 Commission can vote as it deems appropriate. I  
16 appreciate that. What the lenders are looking for  
17 is comfort from the ultimate deciding body that  
18 should there be a subsequent transfer and should  
19 the law not change, that the Commission would  
20 decide it that particular way.

21                 So it would provide them some comfort and  
22 some clarity as to what would happen in the future,  
23 again, should the law not change.

24          CHAIRMAN MURPHY: Mr. Bayt, if we were to  
25 approve Order 188 as it is, not including the

1 additional language, does that do you any good?

2 MR. BAYT: It would not be -- it would not  
3 be in conformance with the plan. So we would have  
4 to go back to the bankruptcy court to either seek a  
5 change in the plan or to have an interpretation  
6 that, well, we would have to seek a change in the  
7 plan.

8 COMMISSIONER FINE: And I guess I'm -- does  
9 the order from the bankruptcy court require  
10 language from an order from the Gaming Commission  
11 to say that or does it just say they want an  
12 insurance, which says to me it could be a  
13 third-party insurance?

14 MR. BAYT: It specifically references the  
15 Commission.

16 Mr. Packer, do you happen to have that  
17 language?

18 MR. PACKER: Your characterization is  
19 correct. The bankruptcy plan says that the debtor  
20 shall obtain from the Gaming Commission an order --  
21 we didn't approve that plan. It's all in the  
22 bankruptcy court order, not in ours. So it's an  
23 interesting conflict where this language existed  
24 without our approval telling us what to do.

25 COMMISSIONER MORGAN: Going back,

1 Mr. Packer, to your recommendation initially, as I  
2 understood it there were four components and three  
3 you agree to?

4 MR. PACKER: Three of which the staff has  
5 made the recommendation to the Commission. About  
6 the fourth, we're making no recommendation.

7 COMMISSIONER MORGAN: No recommendation.

8 Is that something we can table until a later  
9 date because it's kind of complicated?

10 MR. PACKER: I think that's up to the wisdom  
11 of the Commission.

12 COMMISSIONER MORGAN: Right.

13 MR. BAYT: Remember, Commission, we would be  
14 ready to go and ready to emerge from bankruptcy and  
15 ready to start the new companies and continue the  
16 good operations of Hoosier Park with positive  
17 approval of all four components of the requests  
18 today. Absent that, we truly would need to go back  
19 to the bankruptcy court and go to square one.

20 COMMISSIONER SHIELDS: Mr. Bayt.

21 MR. BAYT: Yes, Judge?

22 COMMISSIONER SHIELDS: The only language  
23 that I see that we can do to try to satisfy that is  
24 that this present Commission presently constituted  
25 in the present law says this, and that's all we can

1 possibly do. And as I understand what you're  
2 saying, that would not satisfy --

3 MR. BAYT: I believe that would be -- I  
4 believe that would be satisfactory.

5 COMMISSIONER SHIELDS: -- because it  
6 guarantees nothing.

7 MR. BAYT: But it provides for an  
8 interpretation of the current law by the regulatory  
9 body, which is ultimately --

10 COMMISSIONER SHIELDS: The present --

11 MR. BAYT: Presently. That's all the plan  
12 provides, and I believe that we could have  
13 tremendous comfort and would feel very comfortable  
14 saying to the bankruptcy court that we are  
15 presenting them with an order that complies  
16 completely with the confirming plan.

17 CHAIRMAN MURPHY: Mr. Packer --

18 MR. BAYT: The language --

19 CHAIRMAN MURPHY: -- can we hear the  
20 language one more time? Or maybe it's Mr. Bayt.

21 MR. PACKER: It's his recommendation. It's  
22 his request.

23 CHAIRMAN MURPHY: Mr. Bayt, could you repeat  
24 the language that you would like to see in the  
25 order one more time?

1           MR. BAYT:  What we would respectfully  
2   request would be language to the effect that under  
3   the law as currently constituted that a transfer of  
4   the license by the new Hoosier Park entity would  
5   not be subject to the transfer fee because it would  
6   be a subsequent licensee and not the initial  
7   licensee.

8           I can condense that, but that is the effect.  
9   It's only subject that the current law would not  
10  bind the Commission to any different law or any  
11  different set of circumstances.

12          COMMISSIONER MORGAN:  Just reiterating my  
13  colleague here and Commissioner, we can only --  
14  this existing Commission can't release the existing  
15  circumstances.  So what does it mean into the  
16  future?

17          MR. BAYT:  Things can change in the future.  
18  But in order to satisfy the bankruptcy court and  
19  confirmed plan, that you would provide me with the  
20  avenue to let them know that we have in fact  
21  accomplished everything with respect to that  
22  particular paragraph of the plan.

23          COMMISSIONER FINE:  The language that you  
24  had and the language that Judge Shields had are  
25  different to me.  You seem to think that -- it made

1 it sound like what she indicated would be some  
2 proposed language that was acceptable. Is that  
3 correct?

4 MR. BAYT: That would be correct, yes. But  
5 given the opportunity to have language requested of  
6 me, I provided the one that I would want. But I'd  
7 be happy -- if Judge Shields would repeat what she  
8 said, I think that that language would work for us  
9 to be able to go back to the bankruptcy court to  
10 say that we've gotten it accomplished.

11 CHAIRMAN MURPHY: Can you repeat what you  
12 said?

13 COMMISSIONER SHIELDS: The most the  
14 Commission can say that under the law as it  
15 presently exists and the facts that are presently  
16 before us, the Board as presently constituted would  
17 say X, Y, and Z.

18 MR. BAYT: I would be fine with that.

19 COMMISSIONER SHIELDS: If we were in the  
20 business of providing opinions.

21 MR. PACKER: And for clarity's sake, the  
22 statement of the law is that -- and this is a quote  
23 from the statute -- the transfer of a gambling game  
24 license by a person other than the initial licensee  
25 is not subject to the transfer fee.

1           So that would be the language that Judge  
2 Shields's language goes on, that's something we  
3 could tack on.

4           EXECUTIVE DIRECTOR YELTON: Let me ask a  
5 question for clarification. Judge Shields?

6           COMMISSIONER SHIELDS: Yes?

7           EXECUTIVE DIRECTOR YELTON: Are you asking  
8 -- was it your suggestion that in the order we  
9 acknowledge this is the law in the state of Indiana  
10 or are you saying that this is the law in Indiana  
11 and as a result of that it is our opinion to  
12 provide --

13          COMMISSIONER SHIELDS: It would have to be  
14 the latter, of course, because it is not for us to  
15 determine. It would be up to a judicial --

16          EXECUTIVE DIRECTOR YELTON: That would be  
17 acceptable?

18          MR. BAYT: That would be acceptable.

19          EXECUTIVE DIRECTOR YELTON: Included in the  
20 order is the Commission recognizes that the law  
21 that exists in Indiana reads as follows.

22          COMMISSIONER SHIELDS: Would be interpreted  
23 as follows.

24          MR. BAYT: As this Commission --

25          EXECUTIVE DIRECTOR YELTON: Interpreted as

1 what?

2 COMMISSIONER SHIELDS: That the initial  
3 transfer, that this would not -- a transfer would  
4 not constitute a transfer.

5 CHAIRMAN MURPHY: This would not constitute.

6 EXECUTIVE DIRECTOR YELTON: The future one?

7 COMMISSIONER SHIELDS: That's not what he  
8 wants. He wants the future one.

9 EXECUTIVE DIRECTOR YELTON: As long as we  
10 understand what you want, we'll do it.

11 COMMISSIONER SHIELDS: I want to make sure  
12 that, first of all, we cannot determine the law.  
13 We can determine how we might interpret it under  
14 the present facts how it's constituted. That's all  
15 we can do.

16 MR. PACKER: How I understand it then, the  
17 language that Judge Shields has proposed is that  
18 under the law that presently exists and under the  
19 facts as presently reported to the Commission as  
20 presently constituted, it is the Commission's  
21 position that according to Indiana Code  
22 4-35-5-7(f), the transfer of a gaming license by a  
23 person other than the initial licensee is not  
24 subject to a transfer fee.

25 EXECUTIVE DIRECTOR YELTON: That is not what

1 she said.

2 COMMISSIONER SHIELDS: I don't want to  
3 interpret the law.

4 EXECUTIVE DIRECTOR YELTON: You just want to  
5 state that this transfer is not subject to the law.  
6 What Phil is asking for is it is the future  
7 transfer.

8 MR. BAYT: Right.

9 MR. PACKER: That's totally correct.

10 MR. BAYT: Everything up until the point of  
11 the current transfer language can be in there. And  
12 I'm appreciative of that, but we need to go to the  
13 next step.

14 COMMISSIONER MORGAN: We're not offering  
15 the --

16 CHAIRMAN MURPHY: Can you quote the statute?

17 MR. PACKER: The subsequent statute or the  
18 current statute?

19 COMMISSIONER FINE: You can quote them both.  
20 But I think it's this Commission, these facts, et  
21 cetera, basically this is what applies, colon, and  
22 then take the language --

23 MR. PACKER: If that's the will of the  
24 Commission.

25 CHAIRMAN MURPHY: But that doesn't speak to

1 whether this is a subsequent transfer or not.

2 MR. PACKER: I think we all acknowledge that  
3 this is not a subsequent transfer.

4 COMMISSIONER SHIELDS: I think what we ought  
5 to do and the Commission to say is that if this  
6 issue were presented to us today, that the present  
7 owner would transfer to a subsequent owner, that  
8 under the law that exists today as this Commission  
9 is constituted, it would not constitute a --

10 MR. PACKER: Transfer fee.

11 COMMISSIONER SHIELDS: -- transfer that  
12 would require the \$50 million fee.

13 MR. PACKER: That's my understanding of what  
14 he's requesting.

15 COMMISSIONER SHIELDS: That is what I think  
16 he wants.

17 Is that right?

18 MR. BAYT: That's correct.

19 COMMISSIONER BELL: Mr. Chairman, or  
20 perhaps Mr. Packer --

21 COMMISSIONER SHIELDS: That's why I --

22 COMMISSIONER BELL: -- can you help clarify  
23 my understanding of the statute today, Mr. Packer?  
24 Or the Chair might be best.

25 COMMISSIONER FINE: Currently the law says

1 the transfer fee on an initial licensee except in  
2 the case of bankruptcy, et cetera, that it will  
3 impose a \$50 million transfer fee on an initial  
4 licensee. Clearly for the transfer of the licensee  
5 today, due to the bankruptcy so it's not an  
6 applicable position today, is the new holding  
7 company to utilize its being transferred today to  
8 be considered an initial licensee or a new licensee  
9 in the future?

10 MR. PACKER: I think that would be up for  
11 interpretation by a court of law. But the license  
12 -- one of the positions that the Commission staff  
13 had asked me to approve today is the transfer of  
14 the license from one entity to another.

15 MR. BAYT: And that is the nub of it, that  
16 is the key. We believe that when the transfer  
17 occurs, that the new holder of the license will be  
18 a subsequent licensee, not the initial licensee,  
19 and therefore not subject to a transfer fee when it  
20 subsequently would transfer.

21 MR. PACKER: And I think that that is a  
22 reasonable interpretation of the law as it exists  
23 today. The question for you then would be do you  
24 want to make that declaration an order. And the  
25 question that Mr. Ratcliff was explaining is this

1 simple question: If this license and there's no  
2 intent to transfer it, but if this license were to  
3 be transferred next week after this transfer, would  
4 the Commission impose a transfer fee?

5 It's our belief that it would not because it  
6 was not the initial licensee, it's a subsequent  
7 licensee, and as a result there would not be a  
8 transfer fee imposed. What we're simply asking is  
9 that that concept under the current law with  
10 respect to the current members of the Commission as  
11 seated in the context of the subject question, that  
12 that is how the Commission would interpret and make  
13 a decision on the basis of the transfer fee  
14 relating to that subsequent transfer fee.

15 COMMISSIONER SHIELDS: I haven't seen the  
16 statute, but I'm curious why only one transfer  
17 would be taxed and others would not.

18 EXECUTIVE DIRECTOR YELTON: Ask the  
19 gentleman to your left.

20 COMMISSIONER SHIELDS: I was going to do  
21 that. That's one of the things that in  
22 interpreting the statute you'd have to know. I  
23 mean, I'd like to see it.

24 EXECUTIVE DIRECTOR YELTON: One of the  
25 problems the staff has, and like I said before I

1 started, I'm not disagreeing with Phil. I'm saying  
2 I don't know that this Commission can render a  
3 legal opinion about a future act that could be  
4 subject to legislative alteration or  
5 interpretation.

6 COMMISSIONER MORGAN: Which goes back to  
7 what you originally suggested. A new agreement is  
8 given time and given our circumstances, it's all we  
9 can really reach.

10 MR. BAYT: And I would be comfortable with  
11 that statement. That is -- the law as is currently  
12 constituted, the Commission as it's currently  
13 constituted, and the facts that would be presented;  
14 namely, that this transferee that presumably would  
15 be approved today would at some subsequent date be  
16 the subject of transfer. We're simply asking that  
17 the Commission given that set of circumstances  
18 agree or state in an order that that set of  
19 circumstances would result in no application of the  
20 transfer fee.

21 COMMISSIONER SHIELDS: Until I read it  
22 myself, until I can read the statute and understand  
23 its history, I'm not willing to say that that's  
24 what I think right now. I mean, it takes a little  
25 more thought than just --

1           MR. RATCLIFF: And I agree we don't know  
2 what we're dealing with even under the current  
3 situation. We don't know what we're dealing with  
4 even under the current situation.

5           MR. BAYT: You can see the dilemma currently  
6 that we're under.

7           COMMISSIONER MORGAN: I understand and you  
8 see where we're at. And I will go back to what the  
9 judge is saying. We are basically agreeing --

10          MR. RATCLIFF: How long do you think it  
11 would take to you determine what would be subject  
12 to a \$50 million transfer? Would it take months?  
13 How would you determine if we were to transfer two  
14 weeks from now what this --

15          CHAIRMAN MURPHY: Mr. Ratcliff, I think the  
16 point is that we're not here at this point to  
17 speculate our future transactions. And I think  
18 that -- do the Commissioners have any more  
19 questions of Mr. Bates? Is there any more  
20 discussion?

21          COMMISSIONER MORGAN: I think you've  
22 answered everything very well in the extended  
23 situation. I think it's something we're going to  
24 need to agree how we're going to proceed.

25          MR. BAYT: Thank you.

1           COMMISSIONER SHY: Procedurally, though, we  
2     can agree to present it to us?

3           MR. PACKER: We can agree to approve the  
4     three components that the Commission staff has  
5     recommended. You could agree to approve all four  
6     components including the one that Mr. Bayt has  
7     requested. Those seem to be the two options that  
8     are in front of you at this point.

9           COMMISSIONER FINE: The proposed order  
10    that's in front of us takes care of three?

11          MR. PACKER: The order that the Commission  
12    staff prepared for you to look at in your materials  
13    takes care of the first three.

14          COMMISSIONER MORGAN: Can we just vote on  
15    that then? I mean, that's not going to get us from  
16    Point A to Point B.

17          CHAIRMAN MURPHY: In fact, Commissioner  
18    Morgan, I think that's the resolution. Let's call  
19    for a motion on Order 2011-188 as recommended by  
20    Commission staff.

21          MR. PACKER: As recommended by Commission  
22    staff?

23          COMMISSIONER SHIELDS: I move to approve it.

24          COMMISSIONER MORGAN: I'll second the  
25    motion.

1           CHAIRMAN MURPHY:  It's been moved and  
2   seconded.  All those in favor --

3           COMMISSIONER SHIELDS:  Is there any  
4   discussion?

5           CHAIRMAN MURPHY:  Is there any discussion?

6           COMMISSIONER SHIELDS:  What are we doing  
7   about No. 4?  Are we going to do any study on it?  
8   Are we going to ask for an opinion?

9           CHAIRMAN MURPHY:  Would you like to do that?

10          COMMISSIONER SHIELDS:  Yes.  I'll ask the  
11   staff for an opinion.  Not as to what the law is,  
12   but really what is our obligation or are we  
13   prohibited in making any in the future.

14          COMMISSIONER MORGAN:  I agree.

15          COMMISSIONER BELL:  Is it possible for staff  
16   as well to offer an opinion at a later date on  
17   whether or not in this circumstance a licensee  
18   would be an initial licensee or subsequent?

19          EXECUTIVE DIRECTOR YELTON:  If you make that  
20   question request --

21          COMMISSIONER BELL:  I'm just asking about  
22   for the feasibility.  I apologize.  This is my  
23   first day.

24          EXECUTIVE DIRECTOR YELTON:  We work for you.  
25   The request is accepted and will be done.



1           Some contain other technical and material  
2 changes, and Hollywood has submitted an additional  
3 request which can be considered separately under  
4 Order No. 193b, and we'll talk about that in a few  
5 moments. All the modifications to the LDAs for  
6 Aztar, Belterra, Blue Chip, French Lick, Hollywood,  
7 Horseshoe Hammond, Horseshoe South, the Majestic  
8 Star Casinos, and Rising Star are ready for your  
9 approval.

10           These requests comply with the new statutes  
11 and with the administration recommendation on the  
12 LDAs. So that leaves the staff recommends  
13 Commission approval on Orders 189 through 197, save  
14 193b, which we'll address in a moment.

15           Mr. Chair.

16           CHAIRMAN MURPHY: Thank you, Mr. Packer.

17           Are there any questions of Mr. Packer  
18 regarding the orders? If not, is there a motion to  
19 approve Orders 2011-189 through 197 excluding  
20 2011-197b?

21           COMMISSIONER MORGAN: Motion to approve.

22           COMMISSIONER SHY: Second.

23           CHAIRMAN MURPHY: It's been moved and  
24 seconded for orders 2011-189 through -- I'm sorry.  
25 It's been moved and seconded. All those in favor

1 indicate by saying aye.

2 (All said aye.).

3 CHAIRMAN MURPHY: Opposed? Thank you.

4 Orders 2011-189 through 197 X 193b are approved.

5 Mr. Packer.

6 MR. PACKER: Thank you, Mr. Chair.

7 As I mentioned, Hollywood has requested the  
8 Commission approve the LDA regarding an upcoming  
9 project in Lawrenceburg. Mr. Chairman, I  
10 understand that representatives of Hollywood Casino  
11 are here to present this project and the  
12 accompanying LDA to the Commission. So I'll turn  
13 the mic back over to you.

14 CHAIRMAN MURPHY: Thank you, Mr. Packer.

15 Is Mr. Finamore with us today?

16 UNIDENTIFIED SPEAKER: Thank you.

17 Mr. Chairman, Commissioners, it is my pleasure to  
18 introduce Senior Vice President of Operations John  
19 Finamore.

20 MR. FINAMORE: Thank you. Mr. Chairman,  
21 Commissioners, Executive Director Yelton, and  
22 staff, good afternoon. I'm John Finamore with Penn  
23 National Gaming.

24 If I can, I'd like to make a few  
25 introductions before we get started on the other

1 matter. I'm very pleased today to report to the  
2 Commission that the property has a full slate of  
3 executives on their leadership team, and if I can  
4 just take a moment to introduce them very quickly.

5 Our new vice president of finance, if I  
6 could ask her to stand up, is Jeanne Minderfile  
7 (phonetic). Jeanne has over ten years of gaming  
8 experience working in jurisdictions including  
9 Nevada, Colorado, Iowa, and Louisiana and she most  
10 recently was at our property in Baton Rouge,  
11 Louisiana.

12 Scott Sanders is our assistant general  
13 manager. Scott joins us with 19 years of  
14 experience, most recently at our property in  
15 Perryville, Maryland where he was the director of  
16 finance. But he has worked for a number of gaming  
17 companies including Nevada, Maryland, Missouri,  
18 Iowa, and Mississippi over those 19 years.

19 I'm also very pleased to introduce our new  
20 general manager Mr. Joe Hasson. Joe has over 30  
21 years experience in the gaming industry. A very  
22 distinguished career, he's worked both in Las Vegas  
23 and in Atlantic City. But I think most  
24 importantly, he's also worked at a number of  
25 regional markets including Louisiana, Kansas,

1 Missouri, Illinois, and Mississippi. Joe joins us  
2 most recently from Station Casinos in Las Vegas  
3 where he worked for about eight or nine years at a  
4 number of their different properties.

5 I would like to make one other introduction  
6 of a corporate employee today who's with me, and  
7 that's Mr. Frank Donaghue. Frank is our new  
8 corporate vice president of regulatory affairs and  
9 our chief compliance officer and he replaces  
10 Mr. Tom Auriemma, who the Commission knew well, who  
11 elected to take retirement recently. Frank was  
12 previously the acting director of the Pennsylvania  
13 Gaming Board. In 2008 he was named to that  
14 position. And prior to that position, Frank was  
15 appointed in 2006 as the first chief counsel to the  
16 PA Gaming Control Board. He also previously worked  
17 at the Pennsylvania Attorney General's Office for  
18 approximately ten years at a variety of positions  
19 including chief deputy attorney general.

20 So Frank also has a very distinguished  
21 career and we're happy to have him with us, and I'm  
22 most happy today that I can tell you we have the  
23 three individuals here today from the Hollywood  
24 property that I introduced. Thank you.

25 If I could ask a couple of gentlemen to join

1 me, first of all, Mr. Mario Todd, who is a city  
2 counsel member from Lawrenceburg, and also Mr. Tim  
3 Jensen with Structurepoint in Indianapolis.  
4 Gentlemen?

5 MR. TODD: Good afternoon, Commission and  
6 staff. As he introduced, I'm Mario Todd, city  
7 counsel Lawrenceburg. I've gathered project  
8 manager Tim Jensen from Structurepoint. I think  
9 Tim's going to kind of give you just a brief  
10 overview of a project up and coming.

11 MR. JENSEN: Thank you. Again,  
12 Commissioners and staff. We appreciate your time  
13 today. We were asked to give a very brief  
14 presentation of what this upcoming project is for  
15 the city of Lawrenceburg. My role with the city is  
16 the city's representative throughout construction  
17 design and planning throughout this last couple of  
18 years and hopefully a couples of years in the  
19 future.

20 Very briefly, about eight years ago or so  
21 the City of the Lawrenceburg began discussing the  
22 need for a downtown type of an entertainment  
23 environment with the progression of more hotel  
24 rooms, visitor spaces, ballrooms, et cetera.  
25 They've bounced around many ideas with many

1 developers over the past few years looking at  
2 different options, but three things came out of  
3 that.

4           Recently in the last two years they got us  
5 involved and we set out to the developments for  
6 some principles for the city. One was the  
7 development was to be constructed to create a  
8 social and economic help for the community. Two,  
9 the facility is being developed as a  
10 mutually-beneficial development for the City and  
11 the existing casino within the city limits. And  
12 three, the development will be established to  
13 provide convention and entertainment opportunities  
14 complementary to the existing Lawrenceburg  
15 businesses.

16           One of the unwritten development principles  
17 was that of the ongoing partnership now with  
18 Argosy, but to keep them competitive in the  
19 changing Ohio market which is currently underway.  
20 So in 2010 they put up requests for proposals for  
21 different developers to look at this project. We  
22 received four proposals for the project, three from  
23 other developers and one for Hollywood.

24           After careful consideration, those scores  
25 were weighted and the counsel voted to move forward

1 with Hollywood Casino and Penn National Gaming  
2 because they believed that in the best interest of  
3 the City it was the group that had the financial  
4 interest most closely aligned with the City's and  
5 that of the local group.

6 At this time the current plans, the  
7 preliminary plans, show for a flat floor,  
8 air-conditioned, concrete facility, a higher-end  
9 ballroom, hotel, restaurant, bar, and meeting  
10 rooms. Within this development agreement that's in  
11 front of you, there are provisions pertaining to  
12 orders and overages that include a project  
13 agreement.

14 Some of the important things we want to  
15 point out is that the City firmly believes that  
16 this hotel will be a major attraction for the City  
17 and will help reidentify or revitalize the downtown  
18 area of Lawrenceburg. It will increase foot  
19 traffic and patron traffic in the downtown area as  
20 this event center is not connected to the casino  
21 property; it's about three blocks away or so.

22 Job opportunity, the City is looking at over  
23 a hundred new full-time jobs for this event center  
24 and hotel in downtown Lawrenceburg in addition of  
25 200-plus full-time construction jobs in the two

1 years while under construction.

2 Annual projections will show that the City  
3 of Lawrenceburg has nearly a thousand event days in  
4 the hotel and the event center beside of it, 40,000  
5 room nights, a hundred thousand food and beverage  
6 coverage for the City, not within the center but  
7 within the City.

8 The costs, I know a lot of people are  
9 interested in the costs of this. The City has gone  
10 through many different budget cycles and different  
11 looks at this thing and analyses and bid estimates.  
12 The first one we looked at this a couple of years  
13 ago was about 75 million, and I think the City at  
14 that time took a step backwards and said this is  
15 too much for this area position on four acres of  
16 city-owned property.

17 And so the city counsel at that time capped  
18 the project at \$50 million. That was capped before  
19 we hit the RFP. The RFP has now renewed that cap.  
20 They knew some of the financing arrangements that  
21 would be available. At the time the City projected  
22 or upped the RFP that would include a \$25 million  
23 grant to whatever developer wanted to tackle this  
24 project. They also made known that they were in  
25 the process of creating a taxing and finance

1 committee for this.

2 So the way this thing broke out at the end  
3 of the day here is that the City is putting in \$35  
4 million through grants and/or TIF dollars and at  
5 this time Penn National is covering the other \$15  
6 million of this development agreement.

7 That's all I have for the Commission today.  
8 If you have any questions, I'd be happy to answer  
9 those.

10 COMMISSIONER SHY: I have a question.

11 MR. JENSEN: Yes, ma'am.

12 COMMISSIONER SHY: I'm from Dearborn County.  
13 So I'm trying to figure out, what's the traffic --  
14 what's the foot traffic going to be between? I  
15 know where the casino is and I believe I know where  
16 the site is. Will that not take people through  
17 neighborhoods?

18 MR. JENSEN: Mario, you can answer that.

19 MR. TODD: If you're familiar with the site  
20 and familiar with the fall festival every year,  
21 vacant lots, roughly four acres adjacent to the  
22 river and the levy, we're hoping the main corridor  
23 would be Center Street --

24 COMMISSIONER SHY: Yeah.

25 MR. TODD: -- which is at Hollywood's front

1 door, putting that mid point, I guess, on Walnut  
2 Street.

3 COMMISSIONER SHY: Okay.

4 MR. TODD: So that would be probably north  
5 of the proposed center, about two blocks. So  
6 hopefully, that would be the energy that would kind  
7 of spark the people downtown. I need to get you a  
8 map --

9 COMMISSIONER SHY: My vision is that because  
10 it's a few-block walk, that it would take people  
11 from one venue to the other site through  
12 neighborhoods.

13 MR. TODD: Well, again, the major group that  
14 it would go through is the major corridor now from  
15 downtown to Hollywood.

16 COMMISSIONER MORGAN: Will you have a  
17 shuttle or you going to have a --

18 MR. TODD: Oh, there will be transportation,  
19 the shuttle service, from Hollywood. But again, so  
20 the downtown merchants go from Hollywood as an  
21 independent shuttle.

22 COMMISSIONER SHY: Would it be available 24  
23 hours a day?

24 MR. TODD: Not 24 hours a day, but I'd say  
25 throughout the major retail hours and also

1 entertainment hours.

2 CHAIRMAN MURPHY: Do the Commissioners have  
3 any other questions?

4 Thank you.

5 MR. TODD: Thank you.

6 CHAIRMAN MURPHY: Mr. Packer, the staff does  
7 recommend the approval?

8 MR. PACKER: That's right. The staff  
9 recommends approval of 193b to approve the  
10 hotel/event center agreement as an LDA.

11 CHAIRMAN MURPHY: As an LDA?

12 MR. PACKER: Right, as an LDA.

13 CHAIRMAN MURPHY: Do the Commissioners have  
14 any other questions for Mr. Packer? If not, is  
15 there a motion to approve Order 2011-193b?

16 COMMISSIONER MORGAN: Motion to approve.

17 COMMISSIONER SHY: Second.

18 CHAIRMAN MURPHY: It's been moved and  
19 seconded. All those in favor signify by saying  
20 aye.

21 (All said aye.)

22 CHAIRMAN MURPHY: Opposed? Order 2011-193b  
23 is approved.

24 Mr. Packer.

25 MR. PACKER: Thank you.

1           CHAIRMAN MURPHY: We will now move on agenda  
2 to reconsideration of Resolution 2011-139 which is  
3 the Ameristar Indiana and Tom Funk.

4           MR. FUNK: Mr. Chairman, members of the  
5 Commission, Director Yelton, and members of the  
6 executive staff, I'm with you again on the  
7 continuing litigation involving the East Chicago  
8 local development agreement.

9           As the Commission is well aware, the local  
10 development agreement in East Chicago has been  
11 embroiled in litigation for years over who is  
12 entitled to receive the flow of economic  
13 development funds provided by a series of documents  
14 which collectively have been referred to as the  
15 East Chicago Local Development Agreement.

16           Under the original agreement, 1 percent of  
17 the local economic development funds would be  
18 payable to the City of East Chicago; two percent of  
19 the funds would be payable to the predecessors, an  
20 entity now known as the Foundations of East  
21 Chicago, Inc.; and .75 percent -- .75 of one  
22 percent would be payable to another entity, East  
23 Chicago Second Century, Inc. for aggravate payment  
24 of the 3.75 percent of the AGI.

25           Those flows of income of the local

1 development agreement have been the subject of  
2 retractive feuds for approximately six years among  
3 Second Century, the City of East Chicago, the  
4 Foundations of the East Chicago and its  
5 predecessors, and the Office of the Attorney  
6 General. The Commission itself is a party in two  
7 of the lawsuits and there are others in which the  
8 Commission is not a party but which also involves  
9 contested claims to those various accounts.

10 In 2006 the Commission adopted Resolution  
11 2006-58 in which the Commission disapproved of the  
12 flow of funds to East Chicago Second Century, which  
13 was the .75 percent of one percent. As a result of  
14 the Commission's action in disallowing or  
15 disapproving the continued payments to East Chicago  
16 Second Century, First Resorts then Ameristar began  
17 re-establishment of the segregated account into  
18 which the .75 percent would be paid. That action  
19 by Resorts and Ameristar ultimately became approved  
20 by a court order in which part of the litigation  
21 was pending.

22 Thereafter, in a separate piece of the  
23 litigation a court order was issued requiring  
24 Ameristar to make payments of the 2 percent which  
25 had been payable to the Foundations also into a

1 separate segregated account. So through court  
2 order, two separate segregated accounts were  
3 established into which Ameristar would be making  
4 LDA payments. One was the .75 percent account and  
5 the other was the 2.00 percent account.

6 As I reported to you the last time I  
7 addressed you on June 2 of this year, the parties  
8 at the invitation of Ameristar participated in a  
9 several-day mediation in April of this year in  
10 which the competing claims were mediated with the  
11 assistance of Judge Sandford Brook, a  
12 highly-regarded mediator and a chief judge of our  
13 Indiana Court of Appeals.

14 Later the mediation was revisited and  
15 further negotiations were conducted. Finally, a  
16 document called a Final Settlement Agreement was  
17 entered into among some of the parties to the  
18 litigation. The Commission is not a party to the  
19 Final Settlement Agreement nor is the office of the  
20 Indiana Attorney General. The Final Settlement  
21 Agreement was executed, it is my understanding,  
22 last week. It was effective September 9, 2011 and  
23 it was provided to me on Monday of this week,  
24 September 12, 2011, at which time I provided it to  
25 Director Yelton and the staff.

1           Pursuant to the Final Settlement Agreement,  
2     the .75 percent account is to be distributed to the  
3     City of East Chicago and the 2.00 percent account  
4     is to be distributed by Ameristar in two ways. A  
5     portion of that account is to be distributed to  
6     legal counsel for East Chicago Second Century for  
7     legal services rendered and costs incurred. The  
8     remainder of the 2 percent account is to be  
9     distributed to the Foundations of East Chicago.

10           With respect to the 2 percent account which  
11     is to be distributed to the Foundations of East  
12     Chicago, the Commission by its resolution on June  
13     2, 2011 had authorized the distribution of the 2  
14     percent account to the Foundations at that time.

15           There is a provision in the Final Settlement  
16     Agreement which essentially in Section 9 states  
17     that the -- and this is in substance, not identical  
18     language -- Section 9 states that the effectiveness  
19     of this agreement and the disposition of the two  
20     accounts are subject to the approval of the  
21     Commission.

22           And I believe the reason that that provision  
23     is contained in the Final Settlement Agreement is  
24     because the 2006 resolution which the Commission  
25     adopted clearly states that the disposition of the

1 .75 percent account is subject to the continuing  
2 jurisdiction of the Commission.

3           Secondly, several opinions of the Indiana  
4 Supreme Court during the course of the litigation  
5 have made it clear, I believe, that the Supreme  
6 Court views the Indiana Gaming Commission as having  
7 continuing jurisdiction over the use and payment of  
8 local payment agreement funds.

9           And thirdly, Senate Bill 325 passed by the  
10 Indiana General Assembly this past session clearly  
11 also subjects local development agreement payments  
12 to the continuing jurisdiction of the Commission.

13           So I believe because of one or all of those  
14 reasons, the parties to the Final Settlement  
15 Agreement provided in that document that the  
16 disposition of the .75 percent account and the 2.00  
17 account would be subject to approval by this  
18 Commission. I have provided a copy of the Final  
19 Settlement Agreement to the staff, an executed  
20 copy, and I would ask, Mr. Chairman, that that  
21 document be acknowledged as part of the record of  
22 the Commission's proceedings today.

23           I have also submitted to the staff a  
24 proposed Resolution 2011-198 for consideration by  
25 the Commission today, and I want to clarify just a

1 couple of parts of this proposed resolution.

2           The resolution as proposed does, in fact,  
3 approve the disposition of the .75 account and the  
4 2.00 percent account in accordance of the terms and  
5 the completion of the Final Settlement Agreement.  
6 However, the language in the proposed resolution  
7 also clearly states that the Commission is  
8 authorizing the disposition of those accounts  
9 subject to approval by the courts which have  
10 jurisdiction over those two accounts as well.

11           The first resolution states in part subject  
12 to approval by the court in which the Second  
13 Century Action is pending, as that term is defined,  
14 the Commission authorizes and approves Ameristar to  
15 distribute and then pay that account in compliance  
16 with the agreement.

17           In Paragraph 2 of the proposed resolutions  
18 also provides with respect to the 2 percent account  
19 that the distribution is approved subject to any  
20 approval of the distribution subject to any  
21 approval which may be necessary by the court in  
22 which the other action is pending.

23           And I think it is important, members of the  
24 Commission, that the Commission's authorization to  
25 Ameristar to make these payments be conditioned

1 upon the approval of the courts as well. There is  
2 a further provision in the proposed resolution  
3 which states that nothing in the resolution is  
4 intended by the Commission to impair any present or  
5 future claims by the Office of the Attorney  
6 General, which is not a party to the Final  
7 Settlement Agreement.

8 At such time as the Commission does consider  
9 the adoption of the tendered Resolution 2011-198, I  
10 would also propose two very brief amendments, which  
11 I frankly caught a few minutes ago that would be  
12 made for purposes of clarification.

13 The resolution as submitted to the  
14 Commission states subject to approval by the court,  
15 and I would propose after the word approval in  
16 subject to approval that the following five words  
17 be inserted.

18 EXECUTIVE DIRECTOR YELTON: Let me interrupt  
19 you.

20 MR. FUNK: Yes?

21 CHAIRMAN MURPHY: Can you tell us where you  
22 are?

23 MR. FUNK: Yes. I'm on --

24 EXECUTIVE DIRECTOR YELTON: We don't have  
25 that.

1           CHAIRMAN MURPHY: We don't have the  
2 language.

3           EXECUTIVE DIRECTOR YELTON: Sara, do you  
4 have a copy for the Commission?

5           MR. PACKER: There's an earlier draft in  
6 your materials, this will be close.

7           MR. FUNK: I apologize, your Honor.

8           EXECUTIVE DIRECTOR YELTON: The one you said  
9 this morning when we were in the executive session,  
10 we did not have a copy so they don't have that one,  
11 the one before that. So if you can work off that  
12 one, maybe --

13          MR. FUNK: Sure. Off the one that was sent?

14          EXECUTIVE DIRECTOR YELTON: Not this  
15 morning, but yesterday morning or whenever.

16          MR. FUNK: If you would turn to page 3,  
17 Resolution 1.

18          CHAIRMAN MURPHY: Okay.

19          MR. FUNK: It starts with the words "Subject  
20 to approval." Are you with me now?

21          CHAIRMAN MURPHY: Yes. Thank you.

22          MR. FUNK: After the word approval, I would  
23 propose the insertion of the following five words:  
24 Of the distribution and payment.

25                 And in paragraph No. 2 the first four words

1 are "subject to any approval," and I would propose  
2 to insert after the word approval the following  
3 five words: Of the distribution and payment.

4 EXECUTIVE DIRECTOR YELTON: Which would  
5 relate to the particular funds. Correct?

6 MR. FUNK: Yes.

7 EXECUTIVE DIRECTOR YELTON: Okay.

8 MR. FUNK: With those revisions, members of  
9 the Commission, as your counsel I would ask you to  
10 consider the adoption of Resolution 2011-198 as  
11 requested by the parties to the Final Settlement  
12 Agreement and subject to the court approval as the  
13 amendatory language would provide. And I'd be  
14 happy to answer questions.

15 CHAIRMAN MURPHY: Questions of Mr. Funk?

16 Mr. Funk, I do have one question.

17 Is the Settlement Agreement executed by all  
18 the parties?

19 MR. FUNK: It has to -- I have been provided  
20 with an executed copy of the Final Settlement  
21 Agreement, and I believe that it is a complete  
22 executed copy.

23 EXECUTIVE DIRECTOR YELTON: Members of the  
24 Commission, we do have of an executed copy of the  
25 settlement agreement which I would recommend that

1 you make a part of this record.

2 CHAIRMAN MURPHY: Thank you.

3 EXECUTIVE DIRECTOR YELTON: And should you  
4 decide to act favorably upon Mr. Funk's recommended  
5 amendments, we would prepare a new resolution  
6 accordingly.

7 CHAIRMAN MURPHY: Commissioners, are there  
8 any other questions of Mr. Funk this afternoon?  
9 Any discussion?

10 COMMISSIONER SHIELDS: I move the adoption  
11 of the resolution as recommended.

12 COMMISSIONER MORGAN: I second.

13 CHAIRMAN MURPHY: It's been moved and  
14 seconded to adopt Resolution 2011-198 as amended by  
15 Mr. Funk. All those in favor signify by saying  
16 aye.

17 (All said aye.)

18 CHAIRMAN MURPHY: Opposed? Resolution  
19 2011-198 as revised has been approved.

20 Thank you, Mr. Funk.

21 We'll now move on to renewals and Adam  
22 Packer.

23 MR. PACKER: Thank you, Mr. Chair.

24 The first renewal for your consideration is  
25 Order 199 for Blue Chip. Blue Chip Casino

1 requested renewal of its gaming license. In the  
2 September meeting of 2010 you renewed Blue Chip's  
3 license through August 17, 2011. On June 15th,  
4 2011 Blue Chip requested renewal and paid its  
5 \$5,000 renewal fee. On August 10th of 2011 staff  
6 issued an interim renewal, as is its practice, to  
7 bridge the gap between the expiration of a casino  
8 license and an executive meeting.

9           You also recall that in the March 2010  
10 meeting the Commission approved Judith Campbell as  
11 Trustee in Waiting for Blue Chip. Blue Chip has  
12 requested the Commission's renewal of -- the  
13 Commission's approval of Ms. Campbell as Trustee in  
14 Waiting.

15           Staff recommends approval of Order 199 which  
16 would renew Blue Chip's license and renew  
17 Commission's approval of Judith Campbell as Trustee  
18 in Waiting.

19           CHAIRMAN MURPHY: Any questions of  
20 Mr. Packer regarding Order 199? If not, is there a  
21 motion to approve Order 2011-199?

22           COMMISSIONER SHY: I move to approve.

23           COMMISSIONER BELL: Second.

24           CHAIRMAN MURPHY: It's been moved and  
25 seconded. All those in favor of approval of Order

1 2011-199 signify by saying aye.

2 (All said aye.)

3 CHAIRMAN MURPHY: Opposed? Order 2011-199  
4 is approved.

5 Thank you, Mr. Packer.

6 MR. PACKER: Order 200 is for Rising Star  
7 Casino and their parent company, Gaming  
8 Entertainment Indiana, LLC.

9 On August 25th Rising Star requested renewal  
10 of its casino license and paid its \$5,000 renewal  
11 fee. Rising Star's license is good through today,  
12 so there's no need for staff interim renewal.  
13 Rising Star is also requesting renewal of Ron  
14 Gifford as its Trustee in Waiting. You've approved  
15 Ron as Trustee in Waiting at the March 2010  
16 Commission meeting.

17 Staff recommends approval of Order 200 which  
18 will renew Rising Star Casino's license and renew  
19 Commission's approval of Ron Gifford as Trustee in  
20 Waiting.

21 CHAIRMAN MURPHY: Does the Commission have  
22 any questions on order 200? If not, is there a  
23 motion to approve Order 2011-200?

24 COMMISSIONER FINE: Move for approval.

25 CHAIRMAN MURPHY: Second?

1 COMMISSIONER MORGAN: Second the approval.

2 CHAIRMAN MURPHY: It's been moved and  
3 seconded. All those in favor of approval signify  
4 by saying aye.

5 (All said aye.)

6 CHAIRMAN MURPHY: Opposed? Order 2011-200  
7 is approved.

8 Thank you, Mr. Packer.

9 Next up on the agenda will be the  
10 Permanently Moored Vessel Conversion Plan and Derek  
11 Young.

12 MR. YOUNG: Before you now you have Orders  
13 Numbered 2011-201 through 2011-206, which are  
14 orders regarding licensee-submitted proposals for  
15 conversion to permanently moored vessels. The  
16 recent enactment of Senate Enrolled Act 47 allows a  
17 riverboat licensee to submit to the Commission a  
18 plan to convert the licensee's self-propelled  
19 riverboat into a permanently moored craft and gives  
20 the Commission the authority to approve submitted  
21 plans.

22 Commission staff has received so-called PMV  
23 plans from six riverboat licensees: Ameristar,  
24 Belterra, Blue Chip, Hollywood, Horseshoe Hammond,  
25 and Rising Star.

1           Following the Coast Guard's departure from  
2 the riverboat-certification business, aside from  
3 Horseshoe South and Aztar, in order to certify  
4 riverboat casinos for marine structural and life  
5 safety compliance, the IGC contracts with ABS  
6 Group. In order to ensure that the PMV plans  
7 proposed by each riverboat adequately met marine  
8 and structural and life safety compliance  
9 standards, Commission staff submitted PMV plans to  
10 ABS for analysis under the following nine  
11 categories that are material to safety and  
12 structural standards.

13           These include staffing of the vessel,  
14 mooring arrangements, propulsion systems,  
15 maintenance of machinery equipment, navigation  
16 systems, emergency procedures, ballasting  
17 procedures, maintenance of life safety systems, and  
18 watch standing which includes checking for flooding  
19 -- flooding, fire, conditions of mooring  
20 arrangements.

21           Each PMV plan is different, but there are  
22 some general trends common to many of the six.  
23 These include disabling while not necessarily  
24 removing the riverboat's navigation and propulsion  
25 systems, adding more substantial mooring

1 arrangements such as cutting power to hydraulic  
2 clamps or cylinders, as well as reorganizing the  
3 marine facilities or comparable department, with  
4 some present staff being kept and some positions  
5 being terminated.

6 ABS, following their analysis of the PMV  
7 plans, has recommended the approval of all six  
8 requests for conversion. All six riverboats have  
9 an Emergency Response Plan, which is a document  
10 used to provide employees with instructions on how  
11 to react to a variety of emergencies from anything  
12 from earthquakes, fire, everything. All of the  
13 ERPs used members of marine staff to perform  
14 emergency functions, so with the changes to the  
15 marine departments as part of the PMV conversion  
16 process, each casino will need to amend its ERP and  
17 train staff on the changes so as to avoid having  
18 ill-prepared employees in the event of an  
19 emergency.

20 Four of the six requesting casinos have  
21 already submitted amended ERPs. Commission staff  
22 recommends that you require that the other two  
23 casinos to submit ERPs. In addition, Commission  
24 staff recommends that each of the six requesting  
25 casinos be required to conduct an emergency drill

1 based on its amended ERP.

2 Commission staff has also consulted with the  
3 United States Army Corps of Engineers as required  
4 under IC 4-33-4-13, and notified the United States  
5 Coast Guard and Indiana Department of Homeland  
6 Security of the plans and provided an opportunity  
7 to comment.

8 On the basis of the recommendation by ABS,  
9 Commission staff recommends approval of each of the  
10 six PMV plans, with conditions placed on each  
11 approval, as necessary, that require: Submission  
12 of an amended Emergency Response Plan reflecting  
13 necessary changes following the conversion to a  
14 permanently-moored vessel; completion of successful  
15 emergency drills under the amended Emergency  
16 Response Plan within 30 days, which may be extended  
17 by Commission staff with good cause shown; and  
18 lastly, compliance with the Army Corps requests  
19 following our consultation with the Army Corps.

20 Commission staff recommends that you approve  
21 all of the orders at this time with one motion.

22 CHAIRMAN MURPHY: Do the Commissioners have  
23 any questions of Mr. Young regarding Orders  
24 2011-201 through 206? If not, is there a motion to  
25 approve the orders?

1 COMMISSIONER SHY: Motion to approve.

2 MR. MORGAN: Second.

3 CHAIRMAN MURPHY: It's been moved and  
4 seconded. All those in favor of approving the  
5 orders signify by saying aye.

6 (All said aye.)

7 CHAIRMAN MURPHY: Opposed? Orders 2011-201  
8 through 206 are approved.

9 Thank you, Mr. Young.

10 The next item on the agenda will be special  
11 requests and Adam Packer.

12 MR. PACKER: Thank you, Mr. Chair.

13 The first casino request for your  
14 consideration is Order 207 regarding Indiana Live!  
15 Casino's request to add 200 electronic gaming  
16 devices under Indiana Code 4-35-7-11.

17 On June 1st, 2001 Indiana Live! Casino  
18 requested Commission's approval to install an  
19 additional 200 slot machines in addition to the  
20 2,000 that it's currently approved to have under  
21 Indiana Code 4-35-7-11. Indiana Code 4-35-7-11  
22 states that a gambling game licensee may not  
23 install more than 2,000 slot machines on its  
24 premises without the approval of the Commission.

25 Indiana Live submitted documentation in

1 support of its request and that documentation has  
2 been submitted to the Commission for its  
3 consideration.

4 COMMISSIONER SHIELDS: I had the  
5 opportunity, by the way, to read the request and  
6 supportive documentation. And at this time because  
7 I'm aware of several unresolved issues concerning  
8 Indiana Live of the entire Commission that this  
9 request be tabled.

10 CHAIRMAN MURPHY: We have a motion on the  
11 floor to table Order 2011-207.

12 COMMISSIONER FINE: Second.

13 CHAIRMAN MURPHY: It's been moved and  
14 seconded. All those in favor of tabling Order  
15 2011-207 signify by saying aye.

16 (All said aye.)

17 CHAIRMAN MURPHY: Opposed? Order 2011-207  
18 is tabled. And I would understand that there is a  
19 request to speak in connection with that particular  
20 order and I would ask that we defer that until a  
21 future meeting if we could. Thank you.

22 Next on the agenda is Order 2011-208 and  
23 Adam Packer.

24 MR. PACKER: Thank you, Mr. Chair.

25 Order 208 is a request made by Icahn

1     Enterprises which is called Icahn's Investment  
2     Group I think they were called in Order 2010-1.  
3     The Commission approved the application of  
4     Tropicana Entertainment to acquire ownership of  
5     Casino Aztar and its parent company. And Icahn  
6     Enterprises is the substantial owner of Tropicana  
7     Entertainment.

8             Also in Order 2010-1, because the ownership  
9     interests in Tropicana Entertainment were held by  
10    several of the Icahn Funds, we'll call them, and  
11    the names of those Funds are detailed in your  
12    documentation, the Commission placed certain  
13    restrictions on those Funds, certain conditions on  
14    those Funds, and certain requirements on those  
15    Funds, that the Funds report to the Commission when  
16    Fund membership changed. And the reason for that  
17    was because of a concern that unknown or  
18    uninvestigated individuals would obtain a  
19    substantial interest in the Indiana licensee.

20            A few months ago the Icahn Group came to the  
21    Commission staff and stated that they were  
22    reorganizing the ownership of Tropicana  
23    Entertainment in-house within its structure.  
24    Commission staff determined that did not constitute  
25    a transfer, but there is an impact to that in that

1 the Funds no longer hold any ownership interest in  
2 Tropicana Entertainment and, therefore, no longer  
3 hold ownership interest in the Indiana licensee.

4 And that is the justification that Icahn  
5 Enterprises has presented to Commission staff on  
6 why the Commission should amend its order of Order  
7 2010-1 that placed these conditions on Icahn  
8 Enterprises and the Icahn Funds. And for that  
9 reason, Commission staff at this time recommends  
10 approval of Order 2011-208 which would amend Order  
11 2010-1 to remove the requirements, to remove the  
12 employee restrictions and conditions that the  
13 Commission placed on the Icahn Funds at the time of  
14 the transfer.

15 CHAIRMAN MURPHY: Questions of Mr. Packer on  
16 2011-2008? If there are none, is there a motion to  
17 approve Order 2011-208?

18 COMMISSIONER SHIELDS: I'll move.

19 COMMISSIONER MORGAN: I second the motion.

20 CHAIRMAN MURPHY: It's been moved and  
21 seconded. All those in favor signify by saying  
22 aye.

23 (All said aye.)

24 CHAIRMAN MURPHY: Opposed? Order 2011-208  
25 is approved.

1 Thank you, Mr. Packer.

2 We'll now move on to Rules and Adam Packer.

3 MR. PACKER: Thank you, Mr. Chair.

4 The first rule for your consideration is in  
5 Resolution 209, which is the adoption of a final  
6 rule regarding junketeers' transportation of chips,  
7 tokens, dice, cards, and also of Blackjack layouts.  
8 Commission staff has submitted a notice of intent  
9 to promulgate a rule on May 4th of 2011 that it  
10 intended to promulgate a rule regarding the topics  
11 that I just explained.

12 We called a hearing on August 5th, 2011  
13 which was recessed to August 16th of 2011. The  
14 public comments resulted in the Commission staff  
15 making some changes to the proposed rule that was  
16 submitted to LSA, and those changes are reflected  
17 in a change list that has been provided to you and  
18 have been provided to the appropriate state  
19 agencies.

20 These changes involved many non-material  
21 changes and many ministerial type of changes and  
22 few internal corrections that the staff needs to  
23 know about. Commission staff recommends that you  
24 approve Resolution 209 which would adopt LSA  
25 Document 11-275, the rule that's been described to

1 you as a final rule.

2 CHAIRMAN MURPHY: Are we ready, Adam?

3 MR. PACKER: Yes.

4 CHAIRMAN MURPHY: Commissioners, 2011-209,  
5 any questions of Mr. Packer? If not, is there a  
6 motion to approve 2011-209?

7 COMMISSIONER MORGAN: Motion to approve.

8 COMMISSIONER SHY: Second.

9 CHAIRMAN MURPHY: It's been moved and  
10 seconded. All those in favor of approval signify  
11 by saying aye.

12 (All said aye.)

13 CHAIRMAN MURPHY: Opposed? Resolution  
14 2011-209 is approved.

15 Thank you, Adam.

16 MR. PACKER: Resolution 210 is the next rule  
17 on your agenda, and it is for the adoption of an  
18 emergency rule regarding gambling by immediate  
19 family members, more specifically regarding the  
20 planning and promotional prizes by immediate family  
21 members.

22 As you may recall, you passed Resolution  
23 2011-76 which adopted an emergency rule regarding  
24 participation of immediate family members of Level  
25 1 and Level 2 licensees and promotions. You'll

1 recall a discussion we had about that, there was a  
2 concern that immediate family members of some  
3 high-ranking executives at some of the casinos were  
4 getting promotional prizes that impacted the  
5 integrity and credibility of gaming.

6           During the effectiveness of that emergency  
7 rule that you passed for Rule 76, staff and the  
8 Indiana casinos and the Casino Association of  
9 Indiana have had several discussions about the  
10 difficulty of implementing that rule. In part it  
11 prevented -- the old rule -- the current effective  
12 rule prevented participation in promotional  
13 activity prizes. It was difficult to police people  
14 entering these contests, but easier to police them  
15 on the winning end.

16           The Casino Association also commented that a  
17 \$500 minimum amount was casting that too wide and  
18 that too many Level 2s were included in the  
19 official emergency rule. The Commission staff was  
20 willing to consider those changes and has prepared  
21 a new emergency rule that is designed to address  
22 the concerns the Casino Association brought.

23           The concerns are that the casino staff  
24 agreed that this would be a difficult rule to  
25 implement. And it also gives Commission staff an

1 additional six months to promulgate a formal rule  
2 and a public hearing that will be held on October  
3 17th on the proposed rule in this matter. So we  
4 are moving forward on the proposed rule and it is  
5 going to incorporate a lot of changes that you're  
6 making today if you pass Resolution 210 adopting  
7 this emergency rule.

8 But formally, Commission staff recommends  
9 that the Commission adopt Resolution 210 which  
10 would adopt a new emergency rule regarding  
11 immediate family members in promotions.

12 CHAIRMAN MURPHY: Questions of Mr. Packer on  
13 Resolution 210? If there are none, is there a  
14 motion to approve Resolution 2011-210?

15 COMMISSIONER BELL: So moved.

16 COMMISSIONER FINE: Second.

17 CHAIRMAN MURPHY: It's been moved and  
18 seconded. All those in favor of approval signify  
19 by saying aye.

20 (All said aye.)

21 CHAIRMAN MURPHY: Opposed? Resolution  
22 2011-210 is approved.

23 Adam. I'm sorry. Lea.

24 MS. ELLINGWOOD: That's okay.

25 You have now before you Resolutions 2011-211

1 and 2011-212. Resolution 2011-211 is a resolution  
2 adopting emergency rules regarding professional  
3 boxing and mixed martial arts. Resolution 2011-212  
4 is a resolution that adopts an emergency rule  
5 regarding amateur mixed martial arts.

6 The emergency rules regarding professional  
7 boxing and mixed martial arts add a basis upon  
8 which a professional license can be revoked or  
9 denied creating a process for a ban on license  
10 applications and adds a 40-hour deadline for the  
11 submission of medical records.

12 The emergency rule regarding amateur mixed  
13 martial arts requires sanctioning bodies to enforce  
14 the rules adopted by the Association of Boxing  
15 Commission -- Commissioners, or otherwise known as  
16 ABC. This rule adds safety measures which include  
17 creation of a new lighter weight class and they  
18 shorten the lengths of a bout. All these changes  
19 are being appropriated into a final rule adoption  
20 process.

21 Commission staff respectfully requests that  
22 you adopt those resolutions.

23 CHAIRMAN MURPHY: Any questions of  
24 Ms. Ellingwood regarding the resolution? If not,  
25 is there a motion of approve 2011-211?

1 COMMISSIONER MORGAN: Motion to approve.

2 COMMISSIONER SHY: Second.

3 CHAIRMAN MURPHY: It's been moved and  
4 seconded. All those in favor for approval signify  
5 by saying aye.

6 (All said aye.)

7 CHAIRMAN MURPHY: Opposed? Resolution  
8 2011-211 will be approved.

9 MS. ELLINGWOOD: Do you have 212 as well?

10 CHAIRMAN MURPHY: I'm sorry. Let's do that.  
11 Any discussions on that? Is there a motion  
12 to approve?

13 COMMISSIONER FINE: Motion to approve.

14 COMMISSIONER SHIELDS: Second.

15 CHAIRMAN MURPHY: All those in favor signify  
16 by saying aye.

17 (All said aye.)

18 CHAIRMAN MURPHY: Opposed? 2011-212 is  
19 approved.

20 EXECUTIVE DIRECTOR YELTON: Mr. Chair,  
21 Mr. Bayt has requested permission to re-address the  
22 Commission regarding Order 2011-188. It's up to  
23 the pleasure of the Commission.

24 CHAIRMAN MURPHY: Mr. Bayt.

25 MR. BAYT: Thank you, Mr. Chairman. I

1 appreciate it. I beg the Commission's indulgence  
2 and I will be brief.

3 I appreciate the conundrum that you were put  
4 in by the request that constituted our fourth  
5 request and understand the concerns about  
6 hypotheticals. I would ask you to reconsider the  
7 issue in a very, very narrow context and to focus  
8 only on the exact status of Hoosier Park, LLC  
9 immediately after the transfer would go into  
10 effect. So not a hypothetical, but just to focus  
11 on a fact that is exactly in front of you at the  
12 instant of the transfer.

13 And in that regard would request the  
14 inclusion of the following sentence in the order,  
15 and I have e-mailed this to Mr. Packer.

16 As the law is currently constituted, after  
17 the transfer Hoosier Park, LLC is not an initial  
18 licensee under IC 4-35-5-7(f).

19 CHAIRMAN MURPHY: Questions of Mr. Bayt?

20 COMMISSIONER MORGAN: So you've e-mailed the  
21 language and we have it. Are you looking for us to  
22 make a decision on this today?

23 MR. BAYT: With all due respect, that would  
24 give us an opportunity to advise the bankruptcy  
25 court that the confirmed plan is consistent with

1 the order coming from the Gaming Commission, yes.

2 EXECUTIVE DIRECTOR YELTON: Do you have a  
3 statute?

4 MR. PACKER: At this point I have the  
5 statute memorized.

6 CHAIRMAN MURPHY: Is that consistent with  
7 the statute?

8 MR. PACKER: The statute says -- the former  
9 35-5-7(f) says: The transfer of a gambling game  
10 license by a person other than the initial licensee  
11 is not subject to a transfer. And I'll say it  
12 again: The transfer of a gambling game license by  
13 a person other than the initial licensee is not  
14 subject to a transfer.

15 EXECUTIVE DIRECTOR YELTON: And you have the  
16 statutory citation of the exemption of bankruptcy?

17 MR. PACKER: The exemption of bankruptcy is  
18 4-35-5-7(e)(1), and that is already included in the  
19 order that the Commission has already passed  
20 because that wasn't a hypothetical. That was the  
21 present status.

22 MR. BAYT: This is not a request about a  
23 subsequent transfer. This is a request to focus on  
24 the exact status of this licensee immediately after  
25 the transfer.

1           CHAIRMAN MURPHY:  So that's another way of  
2  -- another way of saying that that's immediately  
3  after the transfer you would not be considered an  
4  initial licensee?

5           MR. BAYT:  Correct.

6           COMMISSIONER FINE:  Were you and your firm  
7  involved in crafting the order to the bankruptcy  
8  court?

9           MR. BAYT:  No.  That was the White and Case  
10 law firm in New York City and Miami.

11          CHAIRMAN MURPHY:  Who did that law firm  
12 represent?

13          MR. BAYT:  It represented the -- Centaur.

14          CHAIRMAN MURPHY:  So indirectly this  
15 language was requested in the bankruptcy court?

16          MR. BAYT:  The confirmed plan was a  
17 compilation of 20 attorneys and ten law firms  
18 focusing on a variety of these and required -- that  
19 was one of 50, 60 pages in the order.

20          COMMISSIONER SHIELDS:  Mr. Packer, can you  
21 read the language again?

22          MR. PACKER:  The language of Mr. Bayt  
23 proposed or the language in the statute?

24          COMMISSIONER SHIELDS:  No.  In the proposal.

25          MR. PACKER:  Okay.  Mr. Bayt's proposal is

1 as the law is currently constituted after the  
2 transfer Hoosier Park, LLC is not an initial  
3 licensee under the appropriate statute. And to  
4 parse that out a little bit, Hoosier Park, LLC is  
5 the entity to which the Commission has already  
6 approved the transfer of a license to. It will be  
7 a new licensee upon effectiveness of the transfer.

8 CHAIRMAN MURPHY: Would the staff need time  
9 to consider that as a point in fact?

10 MR. PACKER: No. I think we can confidently  
11 opine that the entity that the Commission has  
12 approved to receive the license in the transfer is  
13 not an initial licensee. It is something  
14 subsequent to the initial licensee. As a legal  
15 opinion, I agree with the language that Centaur has  
16 proposed.

17 COMMISSIONER SHY: So are you providing us a  
18 recommendation?

19 MR. PACKER: I'd have to confer with staff.

20 EXECUTIVE DIRECTOR YELTON: No, we're not  
21 going to make a recommendation here. I'm not going  
22 to -- I said this before. I'm not disagreeing with  
23 that or with Phil. What you would be doing, in my  
24 opinion, is you would be interpreting the statute  
25 as to what would constitute an initial licensee,

1 period.

2 COMMISSIONER SHIELDS: May I ask, because as  
3 I understand it, by the terms of the statute,  
4 because the transfer is in bankruptcy it is not an  
5 initial?

6 EXECUTIVE DIRECTOR YELTON: That's for you  
7 to decide.

8 COMMISSIONER SHIELDS: Let me hear the  
9 statute, please.

10 MR. PACKER: I don't have the bankruptcy  
11 exception part of it.

12 MR. BAYT: We have it.

13 COMMISSIONER SHIELDS: Okay. It would be  
14 nice to actually read the statute.

15 MR. PACKER: The bankruptcy exception  
16 states: The fee imposed does not apply if the  
17 gambling game license is transferred as a result of  
18 an event described in Section 4(c) of this chapter  
19 which is the bankruptcy. I'll say it again. The  
20 fee imposed -- there's a transfer fee imposed by  
21 that section -- does not apply if the gambling game  
22 license is transferred as a result of the  
23 bankruptcy.

24 So it's not that the transfer is not a  
25 transfer of an initial license --

1           COMMISSIONER SHIELDS: But there was a fee?

2           MR. PACKER: It would be a transfer of an  
3 initial license because the transfer is occurring  
4 due to the bankruptcy. So the transfer you just  
5 approved was the transfer of the initial license.  
6 If it weren't for the bankruptcy, I think it would  
7 not have approved the transfer of it. But that  
8 bankruptcy carved it out.

9           EXECUTIVE DIRECTOR YELTON: Could you read  
10 your bankruptcy one more time, Phil?

11          MR. BAYT: Sure. As the law is currently  
12 constituted, after the transfer Hoosier Park, LLC  
13 is not an initial licensee under IC 4-35-5-7(f).

14          EXECUTIVE DIRECTOR YELTON: I don't think I  
15 can disagree with that statement.

16          COMMISSIONER SHY: I guess my question is:  
17 I just heard what you read. Why are we being asked  
18 to confirm that? Why is it being --

19          MR. BAYT: Having read that, there are two  
20 pieces to the statute. Adam read Piece No. 1 which  
21 has to do with the exception because of bankruptcy  
22 if you're the initial licensee. Exception No. 2 is  
23 if you're not the initial licensee, then the  
24 statute simply doesn't apply to you. We've all  
25 agreed and the concurrent order as written

1 identifies and clearly states that the transfer fee  
2 is not applicable even though Hoosier Park, LP was  
3 the initial licensee because of bankruptcy.

4 The second piece which is at issue is  
5 whether or not the Commission will state that the  
6 new entity, Hoosier Park, LLC, is not an initial  
7 licensee. So we're not asking you to opine about  
8 the application of the transfer fee or future  
9 transfers, merely to confirm the status  
10 instantaneously after the transfer of the new  
11 entity.

12 COMMISSIONER SHIELDS: Because you'd already  
13 had the acceptance of the transfer fee also because  
14 of being the initial?

15 MR. BAYT: There are two pieces to the  
16 statute. Number 1 refers back to the second  
17 licensee. After that the statute simply doesn't  
18 apply.

19 COMMISSIONER SHIELDS: I take it there's no  
20 reference on the initial licensee?

21 MR. BAYT: No.

22 EXECUTIVE DIRECTOR YELTON: Just to set a  
23 little history lesson for those of you who are  
24 fairly new and explain a little background to what  
25 may be giving us this, back in 2005 Governor

1 Daniels asked the Gaming Commission and they asked  
2 the Horse Racing Commission to develop a transfer  
3 fee -- well, I think that's at the time -- I take  
4 that back. No, it was 2005, because it was at  
5 Argosy. We enacted a rule that imposed a transfer  
6 fee. Upon a motion -- an initiative by Senator  
7 Meeks, that was statutorily negated.

8           Then another one came in with the right for  
9 the racinos because there was some fear from the  
10 governor that perhaps instead of the permit holders  
11 maintaining the license, that they would turn  
12 around and sell it immediately for a profit. But  
13 although, you hear them say many times over that  
14 they paid too much and the governor will say did  
15 they pay enough.

16           And another transferring fee was imposed by  
17 the Horse Racing Commission and us. But once the  
18 Gaming Commission imposed one, we did not so we  
19 never got to that point. And then I believe  
20 legislatively they outlawed those as well.

21           So there were two previous attempts to  
22 through administrative purposes to impose a  
23 transfer fee, and ones -- the two from the Gaming  
24 Commission were never implemented. So there is  
25 some history out there of I'm not going to say any

1 speculation of what might happen in the future.

2 But those were actions that were not particularly,  
3 shall I say, well received by the industry.

4 So when they wrote this statute, when  
5 Representative Bell wrote this statute, he put in  
6 the 50 million legislatively so that the Gaming  
7 Commission really had no discretion of doing it one  
8 way or another. So a little background that would  
9 explain maybe the impetus for it. And there are  
10 creditors wanting some assurance that we won't go  
11 rogue again.

12 MR. BAYT: They're primarily concerned with  
13 respect to the interpretation and application of  
14 the current law. Not future laws, but the current  
15 law.

16 COMMISSIONER FINE: Were all four aspects of  
17 your last part the initial request that went to the  
18 Commission?

19 MR. BAYT: Yes.

20 EXECUTIVE DIRECTOR YELTON: And he was  
21 advised on that not too long ago that the staff --  
22 that --

23 MR. BAYT: Not recommending against, but  
24 leaving it to the discretion of the Commission.  
25 And at least they're committed to allowing the

1 opportunity to discuss it. And based on your  
2 discussion today, I think we've heard that both  
3 Executive Director Yelton and Adam Packer are not  
4 in disagreement with the language that I have read.

5 COMMISSIONER MORGAN: They're not in  
6 disagreement, but they're not recommending it but  
7 basically you come back and you propose new  
8 language, which is now a different situation than  
9 when we started?

10 MR. BAYT: Correct. It's a much narrower  
11 piece of language. It doesn't create a procedure;  
12 it simply focuses on the status of the --

13 COMMISSIONER MORGAN: Based on what the  
14 bankruptcy court ruled in their language that no  
15 fee would be charged for the transfer?

16 MR. BAYT: Right.

17 COMMISSIONER MORGAN: And that's in  
18 concordance with --

19 MR. BAYT: And that piece was already  
20 incorporated into the order by previous discussions  
21 and prior action of the Commission.

22 COMMISSIONER SHIELDS: What would be your  
23 rationale for making that statement? I know you  
24 need it. But I'm trying to figure out -- I live in  
25 a world where you never give an advisory opinion.

1 So I'm just not comfortable with what our  
2 responsibility is with reference to that area, so  
3 I'm trying to determine how would that be a  
4 legitimate part of the order. How could we justify  
5 that statement? Not that we don't agree with it,  
6 but within the scope of our charge.

7 MR. BAYT: We have a need among the lender  
8 group --

9 COMMISSIONER SHIELDS: I understand why you  
10 need it.

11 MR. BAYT: -- for certainty what the  
12 rationale would be to provide an orderly ability  
13 for commerce to be conducted with respect both to  
14 the operation of the facility and the lending of  
15 the money in a world where people would understand  
16 what the rules are with respect to lending into a  
17 regulated environment.

18 COMMISSIONER MORGAN: This is a serious  
19 issue, \$50 million.

20 MR. BAYT: It's a \$50 million issue.

21 COMMISSIONER MORGAN: It's a serious issue,  
22 and as a commissioner I want to make sure we treat  
23 it seriously.

24 MR. BAYT: And I appreciate that,  
25 Commissioner. We're not asking you to predict the

1 future or suggest what a new law might imply.  
2 We're simply asking you to identify and categorize  
3 the transferee after the transfer in order to  
4 provide some certainty for a lender group that  
5 would understand what the law is today and how you  
6 treat this -- and not hypothetically, but how you  
7 treat this applicant today.

8 CHAIRMAN MURPHY: Any other questions?

9 COMMISSIONER BELL: Yes. I have to say  
10 based on Mr. Packer's statement that, you know,  
11 since he finds himself in agreement with the  
12 language and Executive Directory Yelton is the  
13 same, I'm probably inclined to agree with it as  
14 well.

15 My question is: Mr. Wagman from Clairvest  
16 as he stood up described the three pillars to  
17 invest in this company, the stable regulatory  
18 environment, the structure of the company, and the  
19 opportunity and the profitability is perhaps second  
20 to none in their experience, should we then  
21 conclude that it is second to none with the  
22 exception of this issue that hangs out there? How  
23 do we square these two?

24 MR. BAYT: Is Mr. Wagman in the room?

25 MR. WAGMAN: I'm sorry. What is your

1 question again? I was in the back of the room  
2 here. When I was defining the three criteria  
3 together for a regime along with an exceptional  
4 property management team, and I view with that is  
5 second to none in all of the activity we've  
6 investigated. That was my comment.

7 COMMISSIONER BELL: But this issue of  
8 whether or not the Hoosier Park, LLC qualifies as a  
9 subsequent licensee versus an initial licensee  
10 gives you pause as an --

11 MR. WAGMAN: I'd say that clarifying the way  
12 of what we believe as the case would be more or  
13 less comfort rather than pause.

14 COMMISSIONER BELL: I appreciate that.  
15 Thank you.

16 CHAIRMAN MURPHY: Thank you, Mr. Wagman.  
17 Thank you Mr. Bayt.

18 Any other questions for Mr. Bayt?

19 COMMISSIONER MORGAN: Mr. Chairman, is it  
20 something that we want to vote on now or think  
21 about? What's our --

22 CHAIRMAN MURPHY: Well, I think the first  
23 order would be to call for a motion.

24 Is there a motion to amend our  
25 recently-approved order 188?

1 EXECUTIVE DIRECTOR YELTON: Yeah. The  
2 correct procedure would be to pass a new order  
3 which would be the one you entered plus any  
4 amendment thereto. And I think just to be safe, I  
5 think you want to rescind the previous order.

6 MR. PACKER: We can do it that way or we can  
7 pass an order amending Order 188 to include the  
8 language, whatever the Commission wants.

9 CHAIRMAN MURPHY: Either way.

10 EXECUTIVE DIRECTOR YELTON: If that's your  
11 will.

12 CHAIRMAN MURPHY: First we need a motion.  
13 Is there a motion?

14 COMMISSIONER BELL: I move that we amend  
15 Order 188 to include the language provided the  
16 Committee at the end of this meeting.

17 COMMISSIONER MORGAN: And I second the  
18 motion.

19 CHAIRMAN MURPHY: It's been moved and  
20 seconded.

21 MR. PACKER: Mr. Chairman, this would be  
22 Order 213.

23 CHAIRMAN MURPHY: Thank you. It's been  
24 moved and --

25 COMMISSIONER SHIELDS: Since the motion's

1    been made, can I read the powers of the Commission?

2           It has all powers and duties specified in  
3    this article. All powers necessary to properly and  
4    fully and effectively execute this article.

5    Jurisdiction and supervision over the following:

6    Riverboat gambling and all persons on riverboats  
7    where gambling operations are conducted.

8    Investigate and reinvestigate applicants and  
9    license holders and determine their eligibility.

10   Select among competing applicants. Take

11   appropriate administrative enforcement or

12   disciplinary action. Investigate alleged

13   violations of this article. Establish fees for

14   licenses. Adopt appropriate standards for --

15   Conduct hearings. Issue subpoenas. Administer

16   oaths. Prescribe a form to be used by an operating

17   agent or a licensee involved in the ownership or

18   management. Revoke, suspend, or renew licenses.

19   Hire employees to gather information. Take any

20   reasonable or appropriate action to enforce this

21   article.

22           So I'm trying to see where this falls in.

23           COMMISSIONER MORGAN: It falls in.

24           COMMISSIONER FINE: Judge, is it your

25   point -- and I don't want to speak for you -- in

1 the concept of an advisory opinion --

2 COMMISSIONER SHIELDS: Yes, resolving an  
3 issue that really isn't for us. And I agree, but I  
4 don't want to exceed our authority.

5 CHAIRMAN MURPHY: Well, we do have a motion  
6 on the table.

7 COMMISSIONER SHIELDS: And that's my  
8 discussion.

9 COMMISSIONER MORGAN: I second the motion on  
10 the table.

11 CHAIRMAN MURPHY: It's been moved and  
12 seconded and that brings it to a vote. All those  
13 in favor signify by saying aye.

14 (Commissioners Bell and Morgan said aye.)

15 CHAIRMAN MURPHY: Is that two?

16 COMMISSIONER MORGAN: That would be two.

17 CHAIRMAN MURPHY: Opposed?

18 (Commissioners Fine, Shields and Shy said aye.)

19 CHAIRMAN MURPHY: The original Order  
20 2011-188 is still --

21 COMMISSIONER MORGAN: It stands.

22 MR. BAYT: Thank you.

23 CHAIRMAN MURPHY: That concludes the meeting  
24 for today. Being no more business to come before  
25 the Commission, I will -- the Chair will entertain

1 a motion to adjourn.

2 COMMISSIONER MORGAN: Motion to adjourn. I  
3 second it, first it, or whatever.

4 COMMISSIONER SHY: I second it.

5 CHAIRMAN MURPHY: It's been seconded. All  
6 those in favor?

7 (All said aye.)

8 CHAIRMAN MURPHY: Opposed? We stand  
9 adjourned. Thank you, everyone.

10

11 (The proceedings were concluded at 3:45.)

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